

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH
3 The Estate of JESSE D.)
4 WILLIAMS, Deceased, by and)
5 through MAYOLA WILLIAMS,)
6 Personal Representative,) Volume 12-B
7)
8 Plaintiff,)
9)
10 vs.) No. 9705-03957
11)
12 PHILIP MORRIS INCORPORATED,) Afternoon Session
13)
14 Defendant.)
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TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled
Court and cause came on regularly for hearing
before the Honorable Anna J. Brown on Tuesday, the
9th day of March, 1999, at the Multnomah County
Courthouse, Portland, Oregon.

APPEARANCES

Raymond Thomas, James Coon,
William Gaylord and Charles Tauman,
Attorneys at Law,
Appearing on behalf of the Plaintiff;
James Dumas, Billy Randles, Walt Cofer
and Pat Sirridge,
Attorneys at Law,
Appearing on behalf of the Defendant.

KATIE BRADFORD, CSR 90-0148
Official Court Reporter
226 Multnomah County Courthouse
Portland, Oregon 97204
(503) 248-3549

1 (Tuesday, March 9, 1999, 1:30 p.m.)
2 P R O C E E D I N G S
3 Afternoon Session

4 (Whereupon, the following
5 proceedings were held in
6 open court, out of the
7 presence of the jury:)

8 THE COURT: Are you ready for the jury,
9 folks?

10 MR. COFER: We're ready.

11 (Whereupon, the following
12 proceedings were held in
13 open court, the jury being
14 present at 1:32 p.m.:)

15 THE COURT: Good afternoon, jurors.

16 Mr. Sirridge.

17 MR. SIRRIDGE: Thank you, Your Honor.

18 May it please the Court.

19 JAMES M. KERN

20 Was thereupon called as a witness on behalf of the
21 Plaintiff and, having been previously duly sworn,
22 was examined and testified as follows:

23

24

25

J. Kern - X

1 FURTHER CROSS-EXAMINATION

2

3 BY MR. SIRRIDGE:

4 Q. Dr. Kern, could I ask you to locate in
5 your records that first visit from October of
6 1991. I would like to ask a couple of questions
7 from that visit.

8 A. Okay.

9 Q. That's 10-28-91?

10 A. Yes.

11 Q. Okay. Doctor, in the subjective part of
12 that, it indicates that Mr. Williams was smoking
13 about a pack and a half a day at that point, true?

14 A. That is correct.

15 Q. And I believe you said that you had
16 reviewed the records from the entire Health First
17 chart, and noticed other instances where the
18 consumption had been noted, right?

19 A. Uh, I can't specifically recall what that
20 consumption said in the other notes that other
21 people took, but I think I said that I commonly
22 looked back on at least some of the visits from
23 previous times and tried to incorporate that into
24 my assessment of the current visit.

25 Q. Well, is it your best recollection that

J. Kern - X

1 the consumption noted in the records generally
2 ranged between one and two packs a day?

3 A. Yes.

4 Q. Now, also on that visit in October of
5 1991, Doctor, again calling your attention to the
6 subjective part, it indicates there that
7 Mr. Williams had a persistent cough for several
8 months then, correct?

9 A. That's correct.

10 Q. Also, that he had bloody phlegm, also
11 mixed in with yellow phlegm for several months; is
12 that true?

13 A. Correct.

14 Q. And when we talk about bloody phlegm,
15 that can also been called hemoptysis, can't it?

16 A. Correct.

17 Q. That's a word we've heard a fair amount
18 of, but forgot to spell.

19 He also complained of fatigue for a
20 period of time, is that right, Doctor?

21 A. That's correct.

22 Q. Now, you didn't see him between 1993 and
23 1996; is that correct?

24 A. That's correct.

25 Q. So you wouldn't really be able to testify

J. Kern - X

1 yourself as to whether he had hemoptysis or bloody
2 sputum during that three-year period, correct?

3 A. That's correct.

4 Q. Also, Doctor, in your testimony this
5 morning, you indicated that you had seen the
6 plaintiff -- excuse me -- you had seen
7 Mr. Williams between approximately 1991 and the
8 end of 1996 personally, correct?

9 A. Correct.

10 Q. And you indicated that Mr. Williams did
11 not ask you to refer him to a stop smoking program
12 during that five-year period, correct?

13 A. Correct.

14 Q. And he didn't ask you to prescribe either
15 Nicorette gum or the nicotine patch during that
16 period either, did he?

17 A. That's correct.

18 Q. When we were talking about this morning
19 when you were talking with Mr. Gaylord about the
20 pathology issues in the case, I believe you
21 indicated that when he looked in your records,
22 there was an initial preliminary note before you
23 received the final pathology report; is that
24 correct?

25 A. It was a notation that I made on my chart

J. Kern - X

1 note of 10-11-96 that listed a term called
2 squamous carcinoma.

3 Q. And that was before you received the
4 final report, correct?

5 A. I believe that's correct.

6 Q. And then when you looked up the final
7 report from Legacy, it indicated that the
8 diagnosis was poorly differentiated carcinoma,
9 adenosquamous differentiation, correct?

10 A. That's correct.

11 Q. And when people talk about -- or when
12 doctors and pathologists talk about the term
13 "poorly differentiated," to them that is an
14 attempt to grade the tumor; in other words, to
15 describe the tumor in a particular form. In other
16 words, whether it is well, moderately or poorly
17 differentiated; isn't that correct?

18 A. Correct.

19 Q. And what they're trying to do when they
20 look under the microscope is trying to decide how
21 much of the characteristics of that particular
22 type of tumor that the one they're looking at has,
23 correct?

24 A. Correct.

25 Q. So a poorly differentiated tumor would be

J. Kern - X

1 a tumor which just show the characteristics very
2 well of that particular type of lung cancer; isn't
3 that correct?

4 A. I think that's correct.

5 Q. Doctor, one other time when you were
6 talking about the X-rays in the case, the X-rays
7 that have done during the times Mr. Williams had
8 seen by the clinic, you raised a term called
9 "costophrenic angle." Do you remember that?

10 A. Correct.

11 Q. That's a radiologic term, isn't it,
12 Doctor?

13 A. Yes, referring to an anatomical area.

14 Q. Correct. And the anatomical area is
15 between the bottom of the ribcage and the
16 diaphragm; isn't that right?

17 A. Right. I think it's an angle that is
18 created by the ribcage and the diaphragm really.

19 Q. Correct. And when that area is blunted
20 on X-ray, generally it means there is some sort of
21 density or some sort of scarring which produced
22 the blunting, so it doesn't have the sharp angle
23 that is normally present; isn't that correct?

24 A. I think so. The only thing I would add
25 is it sometimes can represent fluid in that space

J. Kern - X

1 that causes a blunting effect. And at other
2 times, it can represent scarring.

3 Q. But the blunting of the costophrenic
4 angle is not associated with smoking, is it?

5 A. No.

6 Q. Now, what other factors is it associated
7 with, in your experience?

8 A. Again, I think scarring from some
9 prior -- what I think of as an inflammatory or
10 infectious process can leave scarring and blunting
11 there. And the possibility of fluid accumulation
12 in that space could cause blunting, such as people
13 with heart failure or other conditions that would
14 cause irritation and fluid to accumulate in that
15 space.

16 Q. Any other things, such as occupational
17 exposure?

18 A. Certain occupational exposures could,
19 through some inflammatory or process, cause
20 scarring to occur.

21 Q. Doctor, we've had testimony in this case
22 about the use of the term "latency," a latent
23 period. And that basically means between the
24 beginning of an exposure and the appearance of the
25 disease. It is called the latent period, isn't

J. Kern - X

1 it, Doctor, or the latency of the disease?

2 A. I think so.

3 Q. And it's generally accepted that the
4 latency period for lung cancer from cigarette
5 smoking is 20 to 25 years; isn't that correct?

6 A. It sounds correct.

7 Q. So in other words, it takes 25 years from
8 the beginning of cigarette smoking before the
9 appearance of lung cancer due to the latency
10 period, correct?

11 A. I don't know in all cases whether
12 that's -- that always holds true. That may be an
13 average or -- I'm not sure if I could say in every
14 case the latency is 25 years.

15 Q. But the general average is accepted as 20
16 to 25 years; isn't that correct?

17 A. I guess I -- I think that's correct,
18 although, again, I'm not -- not in an area of real
19 expertise here.

20 Q. Well, let me ask you, Doctor, you
21 indicated in your testimony, that the last eight
22 years of Mr. Williams' smoking was a substantial
23 factor in causing his lung cancer. Do you
24 remember that?

25 A. Correct.

J. Kern - X/ReD

1 Q. Now, Doctor, does eight years of smoking
2 by itself, eight years of smoking by itself, would
3 that be a long enough latency period to produce
4 lung cancer?

5 A. I guess I don't know.

6 Q. Well, let me ask you a hypothetical,
7 Doctor. If Mr. Williams would have started
8 smoking in 1988, not 1950, had started smoking in
9 1988, would he have developed the lung cancer that
10 was diagnosed in 1996?

11 A. Probably not.

12 MR. SIRRIDGE: Thank you. No further
13 questions.

14 THE COURT: Redirect.

15 MR. GAYLORD: Yes, thank you.

16

17 REDIRECT EXAMINATION

18

19 BY MR. GAYLORD:

20 Q. Dr. Kern, is the basic theory of lung
21 cancer from smoking related to the period of
22 irritation of lung tissue from cigarette smoke as
23 a long-term precursor to the development of the
24 tumor?

25 A. Say that again for me.

J. Kern - ReD

1 Q. Sure. I understand you're not a cancer
2 specialist. You are a diagnostician and an
3 internal medicine specialist?

4 A. That's correct.

5 Q. Within your expertise, though, do you
6 have a general understanding of how irritation of
7 lung tissue is associated with the development of
8 lung cancer according to medical theory?

9 A. Yes.

10 Q. And is that association based on a
11 long-term period of irritation of lung tissue
12 prior to the development of a tumor?

13 A. I believe it is.

14 Q. When there is discussion of latency
15 periods -- I'm not going to ask you if you know
16 what the numerical latency periods are or how they
17 break down for various different kinds of lung
18 cancer, but do you have an understanding, as a
19 general matter, that those notions of latency
20 period are based on averages or bell curves of the
21 rate of different cancers that occur?

22 A. That's how I understand it, yes.

23 Q. So a statistic like a latency period is
24 probably made up of a combination of fast-growing
25 and very slow-growing cancers?

J. Kern - ReD

1 MR. SIRRIDGE: Objection, Your Honor,
2 leading.

3 THE COURT: It is leading.

4 MR. GAYLORD: I'll rephrase, if I may.

5 BY MR. GAYLORD:

6 Q. Do you have an understanding of whether
7 or not the use of the term "latency period" stems
8 from combining the whole range of rates of growth
9 of different persons' lung cancer?

10 A. That makes sense to me, that
11 interpretation of it. And I think that's why I
12 commented before that on a specific case, it's
13 hard to say, whether you're dealing with an
14 average latency or it's combined -- it's a
15 combination of a number of factors in tumor growth
16 and the patient characteristics, et cetera.

17 Q. Are you also familiar with statistics and
18 published conclusions in the science of lung
19 cancer that indicate that stopping smoking, even
20 after a long period of time, improves a person's
21 prospects over the subsequent years?

22 A. I am aware of that information.

23 Q. Now, just to -- you were asked a question
24 about terminology, and I'm not sure if it's -- if
25 I know the answer or if it is within your

J. Kern - ReD

1 expertise, but let me muddle through it just for a
2 moment.

3 On this question of what "poorly
4 differentiated" means, that's a pathologist's
5 term, I take it?

6 A. Yes.

7 Q. It's what they use to describe something
8 that they see when they look under a microscope at
9 the tumor?

10 A. Right.

11 Q. Do you know if it -- if that term is used
12 actually to describe how similar the tumor cells
13 are to the normal cells of the same name?

14 A. I believe that that term, you know, a
15 cancer cell can look very much like the cell that
16 it was supposed to be or it can look very
17 different from that, and that's how I think of the
18 terminology of "poorly differentiated." It has
19 not achieved enough of the features to look like a
20 particular cell type.

21 Q. Okay.

22 A. In this case, you know, the
23 differentiation between adeno and squamous are two
24 different cell types. To my way of looking at it,
25 again, not being a pathologist, it did not look

J. Kern - ReD

1 strongly like either one of those. It looked much
2 more unrecognizable than either of those, enough
3 to call it that, but it had some features that
4 must have made the pathologist say it looked sort
5 of like this and sort of like this. It's a --
6 you'd have to really ask them to explain it
7 better, I think.

8 Q. Okay. I'm sure we will, but if I'm
9 following what you're saying, that "poorly
10 differentiated" is a way of saying that the tumor
11 cells look very little like normal adeno or
12 squamous cells?

13 MR. SIRRIDGE: Objection, Your Honor.
14 That is leading again.

15 THE COURT: No. It calls for a yes or no
16 answer, which requires the witness to answer the
17 question.

18 THE WITNESS: I believe that's true.

19 BY MR. GAYLORD:

20 Q. And is that consistent with what you told
21 the jury earlier, that "poorly differentiated"
22 suggests a high grade or aggressive tumor?

23 A. Yes. In my experience and my
24 understanding of how cancer acts, as a general
25 rule, "poorly differentiated" is a worse feature

J. Kern - ReD

1 in a tumor than more differentiated in how it acts
2 and what it does to the patient.

3 Q. Okay. There have been some discussion --
4 I'm changing subjects -- about this question of
5 blood in the sputum or blood in the phlegm, or the
6 other word, I guess, is hemoptysis. Is a tumor
7 in the lung the only thing that can cause that?

8 A. No. I mean, it really -- blood in the --
9 coughing up blood can come from a variety of
10 places, anywhere from the mouth, after a
11 nosebleed, you can cough up some bloody phlegm, et
12 cetera; so it can be anywhere along the track
13 where blood could become mixed with the sputum.

14 So a variety of things in the mouth can
15 cause it. Acute infections, some chronic
16 infections can cause enough irritation down inside
17 that blood will be put into the airway and then
18 coughed up, so there are a number of things that
19 can cause that.

20 Q. Can it be a result of just chronic
21 coughing with bronchitis?

22 A. I think it could be; but, again, if there
23 is enough irritation to stimulate the coughing,
24 there are blood vessels down, you know, in the
25 airway that can leak a little and put blood in the

1 J. Kern - ReD

2 phlegm.

3 Q. Can it be a result of chronic irritation
4 from smoking that might be a precursor to but not
yet cancer?

5 A. It could be.

6 Q. During the course of your treatment of
7 Jesse Williams as your patient, from 1981 until
8 his death, did you ever --

9 A. 1991.

10 Q. What did I say?

11 A. '81, you said.

12 Q. I'm sorry. It's one of those thinking
13 one thing and saying the other.

14 During the course of your involvement
15 with Jesse Williams' care, from October 1991 until
16 the end, did you ever become aware of him having
17 chronic daily exposure to any other irritating
18 factors or potential causes of lung cancer,
19 besides cigarette smoking?

20 A. I was not.

21 MR. GAYLORD: Thank you, that's all.

22 THE COURT: Thank you, Dr. Kern. You're
23 free to go.

24 Mr. Gaylord.

25 MR. THOMAS: Plaintiff calls Mayola

1 Williams.

2 THE COURT: I'm sorry, Mr. Thomas. Thank
3 you.

4 Ms. Williams, will you step up here to
5 the witness chair.

6 THE CLERK: Remain standing for just a
7 moment and raise your right hand.

8

9 MAYOLA WILLIAMS

10 Was thereupon called as a witness on behalf of the
11 Plaintiff and, having been first duly sworn, was
12 examined and testified as follows:

13

14 THE CLERK: Please be seated.

15 And for the record, state you name.

16 Spell your first name and your last name.

17 THE WITNESS: Mayola Williams,
18 M-a-y-o-l-a, W-i-l-l-i-a-m-s.

19 THE COURT: Thank you. Mr. Thomas.

20 MR. THOMAS: Thank you.

21

22

23

24

25

M. Williams - D

1 DIRECT EXAMINATION

2

3 BY MR. THOMAS:

4 Q. Are you comfortable there, as comfortable
5 as you can be?

6 A. Yes.

7 Q. You've got to speak up to everybody, all
8 the way back there.

9 A. Okay.

10 Q. You want a glass a water?

11 A. Yeah, I think so.

12 Q. Okay. Are you somebody with a lot of
13 experience speaking in public?

14 A. Pardon?

15 Q. Are you somebody with a lot of experience
16 talking in public to groups of people?

17 A. Oh, no, hardly ever.

18 Q. All right. Well, let's see. I think I
19 mentioned this in opening statement, but I want to
20 go into it again first. I saw you wipe your eye
21 when you were up there?

22 A. Yes.

23 Q. Do you have a health condition that
24 causes your eyes to water?

25 A. Yeah, I have a condition called Graves

M. Williams - D

1 disease, and it keeps my eyes draining all the
2 time.

3 Q. All right. Well, now you know that I am
4 going to be asking you some questions about Jesse
5 Williams?

6 A. Yes.

7 Q. And some of these question may be ones
8 that are upsetting to you.

9 A. I'm sure.

10 Q. And I don't -- I don't want you, and I'm
11 sure that the Philip Morris lawyers don't want you
12 to answering questions when you're upset, so if
13 you get upset by one of these questions, I want to
14 call a time out. Okay?

15 A. Okay.

16 Q. All right. But I think that I know you
17 well enough that I know when your eyes are
18 watering versus when you are crying, so I'm going
19 to pay attention to that.

20 Okay. Let's see. Where do you live?

21 A. [DELETED].

22 Q. And is that up near
23 [DELETED]?

24 A. Yes, it is.

25 Q. Now, is that the place where your family

1 M. Williams - D

2 grew up?

3 A. No.

4 Q. Okay. Did you move up there since Jesse
Williams died?

5 A. Yes, just a few months ago.

6 Q. Okay. Tell the jury who it is that lives
7 with you.

8 A. My daughter, Joann Williams.

9 Q. And was she living with you at the time
10 that Jesse Williams died as well?

11 A. Yes, she gave up her place to come in
12 after Jesse was diagnosed with cancer. She gave
13 up her place to come in to live with me to help
14 take care of him.

15 Q. Okay. And let's go back to your, I
16 guess, just this background. Were you a person
17 who was raised in the Portland area?

18 A. Yes.

19 Q. Okay. And after you got done with your
20 schooling, did you -- and aside from, you know, we
21 know about you having raised a family, but did you
22 work here in Portland? Did you have a career
23 before you retired?

24 A. Well, yes, I had a job.

25 Q. Okay. And did you also work for the

M. Williams - D

1 Portland Public Schools?

2 A. Yes, I did.

3 Q. What was the job that you did for them?

4 A. Well, I did some clerical work. I worked
5 in the print shop, and I was collating and doing
6 types of, you know, office work, you know, just
7 clerical work.

8 Q. Okay. And before that, that was for
9 what, a couple of years?

10 A. Yes.

11 Q. Okay. And I want -- I want you to try
12 telling this to the jury, on this next question,
13 okay?

14 A. Okay.

15 Q. Did you work for the Portland Fish
16 Company before that?

17 A. Yes, I did. I worked there for about ten
18 years.

19 Q. And what was your job there?

20 A. It was basically the same type of
21 clerical work where I logged, and taking care of
22 all of the weight. They canned tuna fish there,
23 and I was taking care of all of the weight, and
24 measured the mercury and lead, all things that
25 goes into the tuna fish. And I logged the times

M. Williams - D

1 it was canned, and the size of cans, and the
2 grades of tuna, and all those things.

3 Q. And did you have some relatives who
4 worked there, too?

5 A. Yes, I did.

6 Q. And were you there about ten years, was
7 it?

8 A. Yes, at one period. I worked there three
9 different times, but the longest period was ten
10 years in one straight time.

11 Q. Okay. Those are the warm-up questions.

12 A. Okay.

13 Q. Are you ready?

14 A. Yes, I am.

15 Q. All right. Let's go back to where you
16 met Jesse Williams. Now, I don't want to spend a
17 lot of time with it, but would you tell the jury
18 how it was that you first met him?

19 A. Well, I met him through friends. My best
20 girlfriend and I had been -- had met some soldiers
21 that was from Fort Lewis, Washington. And I had
22 just got out of high school, so I had taken a job,
23 and I was working. And this one evening, I came
24 home from work and Jesse was there in my home, and
25 that's how I met him first.

M. Williams - D

1 Q. All right. Now, what I would like for
2 you to do is to describe to the jury what you saw
3 when you looked at him.

4 A. Well, when I came in, I saw this nice,
5 good-looking man sitting in my living room, and I
6 didn't know who he was. So I, you know, I just
7 spoke politely. And then I was hungry, so I went
8 to the kitchen, fixed me some food, and came back
9 and sat in the dining room.

10 And I could see him where I was sitting
11 and I kept looking at him, and he was talking and
12 he was smiling, and he had most beautiful teeth
13 that I've ever seen. And right there and then, I
14 just go, "Oh, boy. He is something."

15 Q. Now, was he in uniform then?

16 A. Oh, yes, he was.

17 Q. All right. Do you have rheumatoid
18 arthritis that makes it so you have to walk with a
19 cane?

20 A. Yes, I do.

21 Q. All right. Now, what I have got is a
22 photograph, and I want to see if this is something
23 that you can see on the Judge's screen. And it is
24 going to take me a while to get it all together,
25 but I will.

M. Williams - D

1 Now, is that -- is that Jesse Williams
2 about the time period where you met him?
3 A. It was -- this is before I met him, but
4 he looked very much like that when I did meet him.
5 I think he was around 19 years old there.

6 MR. DUMAS: Excuse me, Your Honor.

7 MR. THOMAS: If it's a problem, let me
8 know.

9 THE WITNESS: Okay.

10 BY MR. THOMAS:

11 Q. Is that okay?

12 A. So far.

13 Q. All right. Now, was he somebody who had
14 come from the city or somebody from the country?

15 A. Oh, he came from the country, deep
16 country.

17 Q. All right. And in terms of his
18 background, did he come from a pretty good-sized
19 country family?

20 A. Yes. He came from a large family, the
21 same size of family that I came from. He had
22 seven sisters and -- five sisters and brothers,
23 and so did I.

24 Q. Okay. Now, can you see my pencil in the
25 picture?

M. Williams - D

1 A. Yes.

2 Q. Is that him in the picture?

3 A. Yes, that's him.

4 Q. And is this a picture of his daddy?

5 A. Yes, that's his father.

6 Q. And his mom?

7 A. Yes.

8 Q. All right. Now, in terms of the kind of
9 the man that Jesse Williams was, was he a guy who
10 was always talking, talking, talking all the time,
11 or was he somebody who was kind of quiet?

12 A. Oh, he was very quiet. He was not -- he
13 wasn't a man of many words.

14 Q. And did he have any resemblance in that
15 way to his own dad?

16 A. To what?

17 Q. Did he have any resemblance in that way
18 to his own dad? In other words, was he like is
19 own daddy?

20 A. Oh, yes. I'm sorry. I didn't
21 understand. Yes, his father wasn't a very -- very
22 much of a talker either. He was quiet. And his
23 mom was more like, you know, she was the talker in
24 the family.

25 Q. All right. Now, in terms of how Jesse

M. Williams - D

1 Williams grew up, you said that he was from the
2 country. Did the family have a farm in Crockett,
3 Texas?

4 A. No, they didn't own a farm, but they
5 lived on a farm. They lived on someone else's
6 farm.

7 Q. Okay. And what kind of work had he done
8 as a young man?

9 A. Oh, he did, you know, farm labor. I
10 think during that time people were picking cotton
11 and chopping cotton and beans or whatever. I
12 don't know what they grew back there in Texas, but
13 I think that is the type of work -- that is the
14 type of work he did. He cut wood and stuff like
15 that, you know, sold wood; that's what he and his
16 father did.

17 Q. All right. When you met him at your
18 house, was he in uniform?

19 A. Yes, he was.

20 Q. Okay. And I think we already showed the
21 jury that picture. Was it like that uniform he
22 had on?

23 A. Yes. Well, he had more stripes on his
24 uniform then.

25 Q. All right.

M. Williams - D

1 A. So yes.

2 Q. So what was he, a sergeant?

3 A. Yes, he was a first sergeant.

4 Q. Okay. Now, when you met him, had been
5 overseas yet?

6 A. Yes.

7 Q. And did you learn about where he had gone
8 in the world while he was in the Army?

9 A. Yes. He told me a lot about his Army
10 career.

11 Q. Okay. Well, tell the jury which
12 countries he had been to.

13 A. He first -- after he left Texas, then he
14 went to Fort Knox. Is that in Georgia, I believe?
15 And then he went to California. And after that,
16 he was shipped over to Japan.

17 Q. Okay. Did he also go to Korea?

18 A. Yeah. After he stayed in Japan for about
19 a year or so, then he was in Korea, in Seoul,
20 Korea.

21 Q. Now, of course, we know what this case is
22 about, and it has to do with smoking. So how was
23 it that he came to become a cigarette smoker in
24 Korea?

25 A. Well, he was part of the -- part of the

M. Williams - D

1 artillery part of the Army there. And that meant
2 that at night they had to stay on guard and guard
3 the artillery. So there was -- it was a lot of
4 mosquitoes; and, you know, just very bad condition
5 there.

6 So the Red Cross gave cigarettes. In
7 fact, they gave Philip Morris cigarettes to the
8 soldiers to smoke -- I mean to the Army and the
9 Army gave them out to the soldiers.

10 Q. And was he given Philip Morris
11 cigarettes?

12 A. Yes, he was given cigarettes to --
13 cigarettes to keep the mosquitoes off of him. I
14 can say this, if you don't mind -- I'm going to
15 add that Jesse would never have smoked cigarettes
16 if he hadn't been given the cigarettes while he
17 was in the service, because he was 19 years old
18 when he went in the service.

19 And I believe his brother had sneaked
20 around and started smoking, because their family
21 wasn't smokers that I know of, and that he was
22 not, you know, he didn't do it. He didn't do
23 anything like that.

24 Q. So was it correct that he didn't smoke
25 back when he was on the farm, but when he left

M. Williams - D

1 home is when he started?

2 A. That's right.

3 Q. Okay. Now, by the time that you met him,
4 was he smoking cigarettes regularly?

5 A. Yes, he was.

6 Q. Okay. Now, I remember when we were
7 sitting here, and I showed Dr. Pollay one of the
8 ads -- I don't know whether you can see it. It is
9 not a great picture, but it shows the Philip
10 Morris cigarette. Is that the kind of cigarette
11 that he smoked back when you met him?

12 A. Yes, that is the kind he was smoking.

13 Q. Now, just to give a little, I guess,
14 education to the jury, are you a cigarette smoker?

15 A. No, I'm not.

16 Q. Have you ever been?

17 A. No, I have never been.

18 Q. Okay. Do you like cigarette smoking?

19 A. No, I hate it.

20 Q. Okay. Did you hate it back when you
21 lived with Jesse Williams?

22 A. Yes, I did. Not at the beginning.

23 Q. Okay. But as time went on, and we're
24 going to go through that as we go through the
25 afternoon, what was it that led to you falling in

M. Williams - D

1 love with and deciding to marry Jesse Williams?
2 A. Well, he was just a very nice person, and
3 I noticed one thing about him, that he liked
4 children a lot, because I had younger sisters and
5 brothers, me being the oldest of my family. And
6 he was always, you know, playing with the kids.
7 And he was just kind of a very nice person like
8 that. And we dated, so I just grew to fall --
9 grew to love him, you know.

10 Q. Did he want to have a family?

11 A. Yes. We talked about that.

12 Q. Was there a period there where he was at
13 Fort Lewis still and you were down in Portland
14 where the two of you wrote love letters back and
15 forth?

16 A. Yes, uh-huh.

17 Q. And then did he eventually move here to
18 Portland, rather than you going back to Crockett?

19 A. Right.

20 Q. Okay. Now, I don't want to spend a whole
21 lot of time on background things, but what I would
22 like to do is to give the jury sort of an
23 introduction to who Jesse Williams was back in the
24 '50s.

25 After he got out of the service, did he

M. Williams - D

1 work a series of different jobs in the Portland
2 area?

3 A. Yes, he did. When he got -- we got
4 married before he got out of the service. And
5 when he got out of the service, well, we -- he had
6 taken his money that he had, and we paid down on a
7 home, and that's where we started our family. And
8 he worked several jobs at that time before he got
9 a job working for the City.

10 Q. All right. Now, when he was -- and I'm
11 just going through the '50s -- was he somebody who
12 liked sports and athletics and things like that?

13 A. Yes.

14 Q. And did he look at magazines and look at
15 some of the ads in the magazines at your house?

16 A. Yes, he saw ads like -- similar to those.

17 Q. I don't know all the names here, but, for
18 example, here's one in -- I think the name is Joe
19 DiMaggio.

20 A. Yeah, I see that. Yeah, we saw that.

21 Q. Did he like to look at the -- did he like
22 to look at the baseball games and basketball games
23 when he had the paper and the scores were in the
24 paper and that?

25 A. Yes. That's the most of the part of the

M. Williams - D

1 paper that Jesse read was the sports ads. I mean,
2 that's the most part of it he read.

3 Q. At some point, did he begin smoking the
4 Marlboro cigarettes?

5 A. Yes.

6 Q. And the Marlboros they were -- when they
7 came out, they were in a red and gold pack?

8 A. I think so.

9 Q. Did he buy the packs or did you buy the
10 cartons or how was it that you got the cigarettes?

11 A. Well, in our early years, I bought
12 cigarettes with the groceries when I'd go grocery
13 shopping, so I would buy them by the carton.

14 Q. What I would like to do is to kind of
15 give the jury as we go through this today an idea
16 of what amount of cigarettes he smoked back in the
17 '50s. And you know, to the extent that you can
18 tell them, and I don't mean exactly, but to the
19 extent that you can, when the Marlboro -- when he
20 first started to smoke the Marlboros, how many
21 cigarettes a day was he smoking or how many packs
22 a day?

23 A. He was smoking about a pack a day.

24 Q. And just to kind of look forward for a
25 minute, did that amount change over time?

M. Williams - D

1 A. Yes.

2 Q. Did it go up or down?

3 A. It went up.

4 Q. Okay. Now, you had a number of kids.

5 How many kids?

6 A. Six.

7 Q. All right. And I think I may have shown
8 this to the jury in the opening statement. Is
9 this a picture of the family?

10 A. Yes, it is.

11 Q. Okay. Now, that's when the kids were
12 young?

13 A. Yes.

14 Q. What kind of a provider was Jesse
15 Williams?

16 A. I would say a very good one.

17 Q. Did the two of you have a -- sort of a --
18 did you have things broken down between the work
19 away from the house and the work in the house, the
20 parenting of the kids, and who was going to be
21 responsible for which chores?

22 A. Not exactly, no. Jesse, he was -- he had
23 taken part in all aspects of our lives.

24 Q. Was he -- you know, we've got different
25 kinds of people. Was he the type of person who

M. Williams - D

1 liked to relax and sit or was he somebody who was
2 kind of on the go more often?

3 A. He was an active person, very active.

4 Q. Okay. What kinds of things, aside from
5 focusing on the family, did he like to do aside
6 from sports when he had some leisure time?

7 A. Could you repeat that?

8 Q. Sure. What kinds of things did he like
9 to do when he wasn't having to take care of the
10 family in terms of interests and things of that
11 nature?

12 A. Outside of the family, there wasn't very
13 much interest that he had taken in, since we --
14 because we included our family in all of our
15 activities that he and I did. We both basically,
16 whatever we did, we'd take the kids with us.

17 Q. And did you have an especially big car,
18 so that everybody could fit together?

19 A. Yeah.

20 Q. Okay. Then at some point in his life, I
21 understand he had a couple of health problems. He
22 had a burst appendix?

23 A. Yes, he did.

24 Q. And then peritonitis also?

25 A. Yes.

M. Williams - D

1 Q. Aside from those things, until he began
2 to develop the bronchitis that we heard about, was
3 he somebody who was coming down with every little
4 thing and lots of health problems or was he
5 somebody who seemed to stay pretty healthy?

6 A. He was very healthy.

7 Q. Was he a guy, whenever he stubbed his toe
8 or had a little ache or pain, he wanted you to
9 call the doctor?

10 A. No, no. He would never go to the doctor.
11 I had to force him to go to the doctor.

12 Q. And what about, I guess, how often was it
13 that things went wrong with him? I mean, he did
14 have the appendicitis that was a burst appendix.
15 That was pretty serious, wasn't it?

16 A. Yes, that was very serious. They gave
17 him up to, you know, to die. They thought he was
18 going to die. And I remember he stayed in the
19 hospital for three months.

20 And it was during -- close to Christmas.
21 As a matter of fact, it got to be Christmas, and
22 they let him out to spend the Christmas Day with
23 the family, and he never went back.

24 Q. So he decided he didn't want to go back?

25 A. No.

M. Williams - D

1 Q. Then aside from the appendix and the
2 peritonitis, did he have other things that would
3 happen where he was down for, you know, a couple
4 of weeks at a time or anything of that nature?

5 A. Only flare-ups from the peritonitis. He
6 had that. He had to go in the hospital several
7 times for that. That's all.

8 Q. And after -- did he get done with that,
9 or did that continue to cause him some problems
10 throughout his adult life?

11 A. No, it didn't continue to cause him
12 problems.

13 Q. Okay. Did he get a job with the Portland
14 Public Schools?

15 A. Yes, he did.

16 Q. And tell the jury what schools he worked
17 at and what he did during the years that he spent
18 with them.

19 A. He was a janitor for the schools, after
20 he had the peritonitis. I have to tell you the
21 beginning of how he got to be a janitor.

22 Q. All right.

23 A. Okay. After he had the peritonitis,
24 appendix, well, it left him disabled, because it
25 broke the main artery in his leg, and that gave

M. Williams - D

1 him a disability -- the start of the disability.
2 So he got rehabilitated from the State, and then
3 they bought him janitorial equipment and stuff
4 like this, so he went into business for himself.

5 Q. And he had his own janitorial service
6 then?

7 A. Yes, uh-huh.

8 Q. Was that in the early '80s?

9 A. That was -- it started in the '60s.

10 Q. Okay. And when was it that he got the
11 job with the Portland School District?

12 A. That was in the early '80s.

13 Q. Okay. From the time when he had his own
14 janitorial business, did he keep some of those
15 accounts when he went into the Portland School
16 District as a janitor?

17 A. Yes, he did.

18 Q. Now, I'd like to give the jury kind of an
19 idea when about was it -- well, first of all, are
20 you somebody who has a real good recollection of
21 things in terms of dates?

22 A. No, I cannot remember very much.

23 Q. All right. Well, what I would like to do
24 is can you -- can you tell the jury if he was done
25 with the problems that he had from the appendix

M. Williams - D

1 and peritonitis by the time he went to the
2 Portland School District?

3 A. Oh, yes.

4 Q. Okay. And was that in about 1980 or
5 somewhere in there?

6 A. Yeah, around 1982 or somewhere like that,
7 he started working for the School District.

8 Q. So was it -- would it be fair to say that
9 during that time period the appendix and
10 peritonitis were not health problems for him?

11 A. There was quite a few years before he
12 started in the School District. They weren't a
13 problem anymore.

14 Q. Okay. And did the family live in
15 [DELETED] this entire time?

16 A. Yes, we always lived in [DELETED].

17 Q. And was it the Southeast/Northeast
18 [DELETED] area pretty much the whole time?

19 A. We lived in Southeast probably half of
20 the time, and the other half in the Northeast.

21 Q. All right. Well, over the time when he
22 was in the '60s and in the '70s, did he still
23 smoke Marlboros or was he smoking some other
24 brand?

25 A. He was smoking Marlboros. He smoked them

1 M. Williams - D

2 all the time.

3 Q. All right. Now, before I -- did I ask
4 you to buy some of the cigarettes that he smoked,
5 so we could show them to the jury?

6 A. Yes, you did.

7 Q. Okay. And was the regular length, I
8 guess, it's maybe king size or something, the
9 Marlboro?

10 A. Excuse me?

11 Q. That's okay. Was this -- was this the
12 brand that he smoked?

13 A. Yes.

14 Q. That's the one that you bought?

15 A. Yes.

16 Q. Okay. And tell the jury when it was that
17 you began to be not liking cigarettes very much
18 and his smoking of cigarettes.

19 A. Well, when he increased the smoking, and
20 he got to be, like, he couldn't -- he just always
21 was smoking too much, I thought he was smoking too
22 much.

23 Q. And did you tell him about it?

24 A. Yes, all the time.

25 Q. And now here we are. We're in this
courtroom with all these people watching us. The

1 M. Williams - D

2 defense lawyers are going to ask you questions in
3 a little while, and it isn't really an environment
4 that maybe makes it easy to have a one-on-one
conversations.

5 But I've had some conversations about
6 what he said to you before, and that's an
7 introduction to the question of, could you,
8 please, as close as you can, give us the words
9 that Jesse would say -- Jesse would say when you
10 would tell him that you thought he was smoking too
11 much.

12 MR. DUMAS: Excuse me, Counsel. I
13 apologize. A brief matter for the Court.

14 THE COURT: Sure.

15 (Sidebar conference
16 between Court and counsel,
17 off the record.)

18 BY MR. THOMAS:

19 Q. When Jesse Williams got to the point
20 where you said anything negative about cigarettes
21 and him smoking them, could you tell the jury what
22 it was that you'd say, and what it was that he
23 would say?

24 A. I would tell him, "Jesse, you smoke too
25 much," you know. "It's is not good for you to

M. Williams - D

1 smoke so much." and he would say to me, "Boy,
2 forget it," or, you know, "It's not smoking too
3 much."

4 And later on when I found out and
5 discovered that from reading and watching the
6 television and things like that, that tobacco was
7 dangerous to your health, so I started telling him
8 those things.

9 And that's when he would really get upset
10 with me and say things like, "Oh, shut up, honey.
11 You don't know what you're talking about," he
12 says.

13 I would tell him such things like I said,
14 "Well, you know that you hear what the Surgeon
15 General says about smoking, that it's too bad for
16 you, or you even hear other comments about it."

17 And he goes, "Well, the tobacco company,
18 they never said that anything like this is going
19 to harm you. They never said there was anything
20 wrong with the tobacco." and he said, "The
21 Government is always saying stuff about something,
22 tobacco or something is going to cause you to have
23 cancer."

24 And he said, "I don't believe it, because
25 the tobacco company just would not do that."

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1 Q. Now, what point was it that you began to
2 say that you thought that he was smoking too much,
3 and you wish he would quit, about when was it?

4 I want to give the jury kind of a
5 bookmark, and then we're going to go forward in
6 time and talk about how things developed.

7 A. The most part of the time started in the
8 late '80s, and then in the '90s. That's when it
9 got to be the worst part.

10 Q. Well, all right. Well, I want to go back
11 to the '70s.

12 A. Okay. I started in the '70s telling him
13 about it.

14 Q. Okay. Now, tell the jury about what
15 level of smoking in terms of how many cigarettes a
16 day was he smoking back in the '70s?

17 A. He started smoking around about a pack
18 and a half a day and it gradually got to two
19 packs. And then I'd say about ten years or eight
20 years before he died, it was three packs.

21 Q. Okay. Now, let's go back to the '70s,
22 because I'm going to try to stay with that for a
23 minute. Did you ever, in the '70s, show him the
24 warning label that was on the cigarette pack or
25 read it to him?

M. Williams - D

1 A. No, I never did, but I told him about it.

2 Q. And what did he say when you showed
3 him -- or told him about it?

4 A. He would just go, "Phooey." You know --
5 you know that's not -- "This is what the Surgeon
6 General says, it's not what tobacco company says."

7 Q. Did you ever talk to him about what the
8 label actually said?

9 A. Yeah. Back in the '70s, it said that it
10 was dangerous -- it could be dangerous to your
11 health.

12 Q. And what did he say about that?

13 A. He would say things -- he would get angry
14 about -- he goes, like, "Well, I been smoking
15 these many years and blah, blah, blah, and it
16 hasn't hurt me yet. I'm not sick or anything yet,
17 so what are you talking about?"

18 Q. Was he the kind of person who got
19 irritated that fast, that quickly, about other
20 things besides cigarettes?

21 A. No. Our most arguments were about
22 cigarettes. That's the most arguments, because as
23 the years went by, I got so that I just hated
24 cigarettes, and I thought that cigarettes was
25 taking the place of some of my time with him,

M. Williams - D

1 because he spent so much time smoking that he had
2 to, you know, interrupt our pleasure times
3 together to take a smoke.

4 And I would just, you know, would be
5 always upset, and so I would jump on him about it.
6 So he would get angry, he'd walk out and all those
7 type of things.

8 Q. Now, you said something that I want to go
9 back to: "Take a smoke." Where did that term
10 come from?

11 A. That's what he would do whenever he --
12 like we -- whatever we were doing, you know, like
13 even if the kids came over, this is after the kids
14 got grown up.

15 Q. And I want to stay back in the '70s?

16 A. Okay. All right. Well, whatever we were
17 doing, and whatever we'd do, and he had a time he
18 would have to smoke. He would just say, "I got to
19 have -- I got to take a smoke. I got to go out
20 and take a smoke."

21 Q. And if the family was involved in a fun
22 activity, or in a not-fun activity, would he leave
23 whatever was being done to go out and take a smoke
24 or have a smoke?

25 A. Yes. He would cut the games. We used to

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1 play lots of games and things like that. And he
2 would cut the game short to go take a smoke. Or
3 when we -- we would go fishing a lot. He would do
4 that, you know. He would smoke while he was
5 fishing.

6 And my thought -- I had a thought it
7 just -- I can't think about some things that we
8 did together, that he would start to smoke. It
9 was just -- it is upsetting to me to think about
10 it.

11 Q. All right. I'm sorry to do that.

12 A. Okay.

13 Q. I've got to ask you about these things,
14 though. You know that?

15 A. Yeah. Well, it's just something there
16 that, you know, it kind of upset me to think about
17 it.

18 Q. Okay. Are you okay to keep going?

19 A. Yes.

20 Q. All right. When was it that he began to,
21 if ever, talk about quitting smoking cigarettes?

22 A. He starting talking about it in the '70s,
23 you know. He would say he would quit, you know.
24 He didn't -- he wasn't committing himself to right
25 there about quitting, but he would say that he was

M. Williams - D

1 going to quit or he would try to quit, and then
2 sometimes he did.

3 Q. All right. Now, what I want to do, and
4 again, we're going to try to stay in the '70s. As
5 near as you can, tell the jury what it was that he
6 would try to do to quit and how it would go?

7 A. Well, when he -- when he was first
8 starting to try to quit, he would try smoking the
9 cigarettes that are supposed to have less tobacco
10 or nicotine in it or whatever that was causing
11 people to have health problems. Like he would
12 smoke the Marlboro Lights, or something like that.

13 Q. All right. Now, did he buy the Marlboro
14 Lights when they became available, the ones in the
15 gold and the white pack?

16 A. Yes.

17 Q. And the pack that you got me was the
18 Marlboro Light 100s. Those are the long ones.
19 Are those the ones that --

20 A. Yeah, he liked the long ones better.

21 Q. Okay. And so one way that he did it was
22 to smoke cigarettes that were supposedly the
23 lighter cigarettes?

24 A. Yes.

25 Q. Did he still -- did he try to smoke fewer

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1 cigarettes?

2 A. Yeah, he tried to cut down on cigarette
3 smoking.

4 Q. Tell the jury what would happen when he
5 tried to cut down on cigarettes.

6 A. Well, it wouldn't last very long, you
7 know, he -- oh, like sometimes he would tell me,
8 "Honey, today I only smoked three cigarettes."
9 and then maybe tomorrow, like, if he had started,
10 "Well, I only smoked five today." And I said,
11 "Well, honey, you're not getting better; you're
12 getting worse again." And then before the week is
13 over, he was back smoking the same amount.

14 Q. And would you say when that happened?

15 A. Yeah. I would ask him, "Well, what's
16 your problem? I mean, why can't you -- why don't
17 you just stop, you know? Why did you start back?"

18 And he'd go, "Well, it's hard, honey."
19 he said, "It's very hard. I just, you know, I
20 just can't." And he would always be nervous and
21 irritable, and so that's why he was smoking.

22 Sometimes he would yell at me a lot. And
23 then he would say -- and then he apologized, and
24 he would say, "Well, honey, I'm sorry, but, you
25 know, I need a cigarette." Or, "I have to smoke."

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1 And then, you know, and then, "I don't
2 mean to be mean to you, but I just get like this
3 sometimes when I have to have cigarette."

4 Q. All right. Now, I would like to go a
5 little bit back to the '60s to television. We
6 heard some testimony about television. What kind
7 of television shows did Jesse Williams like to
8 watch?

9 A. The earlier shows, we liked -- he
10 watched -- we both liked to watch them. We
11 watched shows together mostly, but we watched,
12 like, Dr. Ben --

13 Q. Casey?

14 A. -- Casey, yeah, and Dr. Kildare.
15 Saturday Night Live.

16 Q. Did he like --

17 A. Cowboys. He loved the cowboys. That was
18 his show, when it comes to cowboy movies coming
19 on, he watched those.

20 Q. Did he watch the weekly cowboy movies
21 like Rawhide?

22 A. Oh, yeah. And there was a couple of
23 other ones back then. I can't remember the names
24 of them, like maybe Maverick, or something like
25 that, The Virginian, those type shows.

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1 Q. Okay. And as far as his interest in
2 sports through the '70s, did he continue to be
3 interested in sports?

4 A. Yes, he did, always.

5 Q. Did you in the '70s and the '80s just
6 give up on having him quit or did you keep the
7 pressure on him?

8 A. No, it got worse. The arguments, the
9 pressure, the temper tantrums that he would have,
10 all those things got worse.

11 Q. All right. What I'd like to do is to
12 give the jury kind of a bird's eye view of what
13 would happen when you would have a conversation
14 about cigarettes with him, what he would say and
15 what you would say.

16 Now, you told us some things, so I don't
17 want to go back and start all over again, but as
18 time went on, what kind of things would you say to
19 him and what would he say back?

20 A. Well, it -- the arguments were basically
21 the same. The stands was basically the same, you
22 know. Like he didn't believe that cigarettes was
23 harming him and I believed that they were. And I
24 kept telling him this.

25 And he would get angry and storm out, or

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1 swear at me sometimes and give all kind of excuses
2 to why the cigarettes wasn't harming him.

3 Q. Did he sometimes show you things from the
4 paper to show that there was not sufficient proof
5 about cigarettes being bad for you?

6 A. No. He never did show me anything from
7 the paper, but he had quoted some things to me
8 that he had heard tobacco companies saying, that
9 tobacco was not addictive. He told me that.

10 And he would say, "Well, honey, you see I
11 told you this -- I told you that tobacco wasn't --
12 cigarettes are not going to kill you, because I
13 just heard this so-and-so guy on TV, and he said
14 that tobacco doesn't cause you cancer."

15 Q. Well, was he in a position where when you
16 had a discussion about it, it was kind of like a
17 conversation where his mind wasn't made up?

18 A. To stop smoking?

19 Q. Well, about whether -- what he heard was
20 correct or not; in other words, was he completely
21 open minded about it or did he have his mind made
22 up?

23 A. Oh, he was -- he just thought that was
24 the truth. He believed it. That was Jesse. Once
25 he got an idea or believed in something, it was

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1 very hard to change, and he just did not believe
2 it. It would have to be proven to him, in fact,
3 to change his idea once he got an idea, or he got
4 a belief in something. You couldn't just tell him
5 or show him. It had to be proven, literally
6 proven, to him.

7 Q. What about the '80s? You said that in
8 the '80s that he went up to -- I think you said
9 three packs a day, two to three?

10 A. Well, it was about -- it was about the
11 late -- the late '80s or middle '80s.

12 Q. And is that when he was smoking the
13 Marlboro Light cigarettes?

14 A. Uh-huh, yeah. That's when he was smoking
15 them more then. He was almost smoking them -- for
16 a while there, he was smoking them all the time,
17 you know, like most of the times.

18 Q. How often would he try to quit or slow
19 down?

20 A. Uh --

21 Q. And by this I mean in the '80s.

22 A. In the '80s, he tried more frequently in
23 the '80s to stop -- trying to stop smoking. And
24 then in the late '90s, then he did before, because
25 there was aid to help him, like gum or patches,

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1 and he tried those things.

2 And he even talked about getting -- being
3 hypnotized to try to stop, but he never did -- I
4 don't think he ever got that far. But he, you
5 know, he talked about it. He would go cold turkey
6 at times.

7 Q. Tell the jury about what it was like when
8 he went cold turkey.

9 A. It was horrible. He didn't eat very
10 much, and he would be so angry just all the time,
11 like, I didn't have very much to say to him or
12 talk to him, because he would be too angry to talk
13 to him about smoking.

14 In fact, he had -- well, you know, our
15 conversation would end pretty soon, because he is
16 going to be storming out of the house or just be
17 very angry with me.

18 Q. And then when he went back to smoking
19 again, would he go back to his usual behavior?

20 A. Yeah.

21 Q. Did he ever have in the family a child
22 who was smoking and he let them know about whether
23 he thought they should smoke or not?

24 A. Yeah, when they -- when they were young.
25 Calvin was the one when he was a young teenager,

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1 maybe about 14 years old, he caught him smoking
2 once, and he just got a broom or something, and he
3 just chased him out.

4 I remember, I was at the beauty salon.
5 It was kind of terrible and also funny, because
6 Calvin come running down wanting to know where I
7 was. He was scared do death of his dad. He came
8 running and he said, "Mama, Daddy is going to hit
9 me with the broom."

10 And I go, "Well, why was he going to do
11 this to you?

12 "I was smoking. Me and Nano (ph) was
13 smoking and he got the broom, and he was really
14 going to hit me with the broom."

15 Q. So he made an escape?

16 A. Yeah.

17 Q. And Calvin was the baby of the family,
18 right?

19 A. Yeah.

20 Q. Okay. In the '80s, did he begin to get
21 like a smoker's cough?

22 A. Yes, very, very bad.

23 Q. And would it be something where he would
24 be clearing his throat a lot or how would that be?

25 A. Well, he did -- he cleared his throat a

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1 lot, but he got so he would just cough. He
2 coughed all the time. I mean, he would cough --
3 he would cough so badly until I was -- I was
4 scared, you know, he was going to die from the
5 coughing. That's how bad his cough would get.

6 And then that's when I would start
7 sending him to the doctors. And that's when he
8 started going to Dr. Kern and -- to get
9 medication, because he would cough so much. And
10 then he would wheeze a lot.

11 And he would spit up, not just blood, but
12 it would be -- I mean, terrible-looking stuff, all
13 black and greenish stuff. He was always spitting
14 that stuff up at night. And he would spit up,
15 almost as much as a half a cup of this stuff like
16 that, and it was really frightful to me.

17 But when he went to the doctor, that's
18 why -- he never, you know, I don't think he ever
19 told the doctor the extent of his coughing and the
20 problems, because the doctors would only give
21 him -- they would send him back, and he would say,
22 I asked him, "Honey, what did the doctor say?"

23 And I knew there had to be something
24 terribly wrong with him. He would say, "Oh, they
25 didn't say much. He didn't say much. He said I

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1 was okay. I just have a little cold." And this
2 is the type of way he accepted it.

3 Q. Was this the time when he would have
4 what's been called the chronic bronchitis where he
5 would have the upset chest cold and that?

6 A. That was during the time, yes.

7 Q. Did you go through times with him where
8 he was sad about being unable to quit smoking
9 cigarettes?

10 MR. DUMAS: Objection.

11 MR. THOMAS: I'm sorry. Let me finish my
12 question and maybe I can avoid the objection.

13 MR. DUMAS: Thank you.

14 BY MR. THOMAS:

15 Q. Before he got diagnosed, were there times
16 when he was sad about being unable to quit
17 smoking?

18 A. Yes.

19 Q. Tell the jury what he would say when he
20 was sad about that.

21 A. He would just say, "Well, I wish that I
22 could stop." Because I would be telling him the
23 things that's going to happen to him, that you are
24 going to cough yourself to death.

25 And that, you know, "Well, honey, you're

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1 killing yourself, and not only are you killing
2 yourself, you're harming me," because I had to go
3 to the doctors I don't know how many times for eye
4 infections, and that was the date the doctors told
5 me that it was due to the effects of smoke from
6 the cigarettes.

7 And so I would complain about these
8 things, and he would feel bad about it. He said,
9 "Honey, you know I don't want to do anything to
10 harm you. I wouldn't try to do it intentionally,
11 but I just, you know, I just can't stop smoking."

12 Q. Did he begin smoking outside?

13 A. Yes, he did.

14 Q. Was that partly at least to avoid having
15 you have bad health effects from it?

16 A. Yes. He first began smoking -- we always
17 went someplace together. We was always on the
18 road. And he first started smoking -- stopped
19 smoking in the car.

20 And then we would go where he'd have to
21 pull over to get out to take a cigarette, you
22 know, to smoke. And so we -- and he would do this
23 so often on our trips that we would take -- so I
24 started telling him to designate a place where we
25 were going to stop, you know, so he wouldn't have

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1 to just get out on the side of the road to smoke.
2 And so we would stop at different places and go in
3 so he could have a smoke.

4 And then later it got, you know, that we
5 were -- it was just really bad in the house. And
6 he would go in the basement and try to smoke
7 there, but the smoke would still come up through
8 the vents. And it would make the house smell and
9 it was just terrible. So I'd keep, you know, on
10 him, and so he finally ended up going outside.

11 Q. And I'd like to talk with you about some
12 things that happened with Jesse Williams and
13 cigarettes. Sometimes when he would cough in the
14 night, would it wake him up?

15 A. Definitely.

16 Q. And if he got woken up, would he be able
17 to take a drink of water or something and go back
18 to sleep right away?

19 A. No. Jesse would wake up coughing so
20 hard, it would just make me almost go into tears
21 now, but I won't. He would --

22 Q. Do you want to take a minute?

23 A. Yes.

24 Q. All right.

25 A. Just a second. He would wake up coughing

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2 so hard, and then instead of him taking a drink of
3 water and going back to sleep or something, he
4 would get up, put his robe on, go out in the cold
and smoke the cigarettes.

5 THE COURT: Would this be a good time for
6 the afternoon recess?

7 MR. THOMAS: Yes, ma'am.

8 THE COURT: Let's take 15 minutes.

9 Leave your notes here, please. Don't
10 discuss the case and watch your step coming out.

11 (Whereupon, the following
12 proceedings were held in
13 open court, out of the
14 presence of the jury:)

15 THE WITNESS: I'm sorry.

16 THE COURT: It's okay. People expect
17 it's going to be hard, and you don't need to
18 apologize to people. You just let us know what
19 we can do to help with it. All right?

20 THE WITNESS: Thank you.

21 MR. TAUMAN: Your Honor, I believe that
22 at the end of the day, we will have some
23 transcripts to deal with if we have the time.

24 THE COURT: All right.
25 We're off the record.

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1 (Recess taken, 2:45 p.m.
2 to 3:05 p.m.)
3 (Whereupon, the following
4 proceedings were held in
5 open court, the jury being
6 present:)

7 THE COURT: All right. Looks like we're
8 all are present and accounted for.

9 MR. THOMAS: Thank you.
10 THE COURT: Mr. Thomas.

11 BY MR. THOMAS:

12 Q. Mrs. Williams, we talked about how he
13 would cough in the middle of the night. Did you
14 sometimes take a pack of cigarettes out of the
15 carton for when that would happen?

16 A. Yes. Sometimes I would take a pack of
17 cigarettes out for him. I didn't want him to get
18 up and go out at night. So I would try to hide
19 some out so he could have them.

20 Q. And then he would have a pack that he
21 would be able to go to in the cupboard?

22 A. Yes.

23 Q. Did he -- when he woke up in the middle
24 of the night and would cough, was that something
25 that occurred in the '70s or did it happen towards

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1 the end of his life?

2 A. Toward the end of his life.

3 Q. Was that the bronchitis episodes that
4 were described?

5 A. Yes.

6 Q. I would like to go to some examples of
7 things about cigarettes and how Jesse Williams
8 related to cigarettes. Did you see him open a
9 pack of cigarettes over the years?

10 A. Yes.

11 Q. When he opened the pack of cigarettes,
12 did he -- we heard some talk about in the opening
13 statement -- did he go to the warning on the side
14 and read it?

15 A. No, he didn't.

16 Q. How about -- go ahead.

17 A. If you let me show you, I could show you
18 how he opened the cigarettes.

19 Q. All right.

20 A. He was very -- he liked the soft pack
21 cigarettes. He never, you know, picked them up or
22 read them. He would get a pack of cigarettes, and
23 the most thing he was -- he then would peel this
24 off, and it is very even right here, this part,
25 and he would fold it back.

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1 And then he would go like this
2 (indicating) so he could get cigarettes out. It
3 was a habit. That's how he did it always.

4 Q. Did he do always do it the same way?

5 A. Always, because he was very particular
6 about how he wanted it open at the top.

7 Q. When he went to get cigarette after the
8 cigarettes were already open, would he first thing
9 go to the warning label?

10 A. No.

11 Q. No.

12 A. He just picked them up, you know, the
13 pack of cigarettes here, pick them up here. The
14 first thing he does is go to pull this off, and he
15 would fold this back and even after he got the
16 first several cigarettes out here, he always left
17 this open, just at this end. Like that.

18 Q. You never were a cigarette smoker?

19 A. No, not ever.

20 Q. Okay. I'd like to talk to you about
21 Portland's ice storms and our occasional snow
22 storms. Were there times when the family would --
23 school would be canceled and the family would be
24 basically housebound?

25 A. Yes.

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1 Q. Kids would have no school, all at home?

2 A. Right.

3 Q. And sometimes would you run out of
4 different things?

5 A. Yes.

6 Q. Were there times when you ran out of
7 things that -- maybe ran out of orange juice or
8 something like that?

9 A. Oh, yes, lots of times.

10 Q. And were there times when Jesse Williams
11 would run out of cigarettes?

12 A. Yes.

13 Q. I'd like to have you tell the jury about
14 what would happen when Mr. Jesse Williams ran out
15 of cigarettes when we had bad weather.

16 A. Well, usually whenever we had bad
17 weather, he'd wake up in the morning, and it is
18 all frozen and everything, and if Jesse had his
19 cigarettes, he would stay in for a while. When
20 the cigarettes get down to about three, or two,
21 then he'll say, "I have to go out."

22 And I know what that meant. He'd had to
23 go out and buy cigarettes. He would go out and
24 buy cigarettes. And then he would say --
25 sometimes I have asked him, "Honey, we don't have

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1 some milk," or something like that, "or we need
2 some bread, do you think you could make it to the
3 store? Would you go out and get it?" And he
4 never would, unless he had to have cigarettes.

5 If he had to have cigarettes, then he
6 would go out and get milk or bread, or whatever.
7 He would walk if he had to. Or he would take a
8 chance and drive or anything.

9 Q. No matter what the weather was?

10 A. It didn't matter what the weather was.
11 And it didn't matter how far he would have to
12 walk, he would walk to get cigarettes, and then he
13 would bring back the milk or bread or whatever
14 with him. But many times he went out and didn't
15 bring back anything but cigarettes.

16 Q. What would it be like, from what you
17 could see, when he would have been out of
18 cigarettes? What did you see about him if he ever
19 ran out?

20 A. Irritation and very upset.

21 Q. Were there times where you would be with
22 him watching a movie, or in a restaurant with
23 friends, and cigarettes would interfere with that?

24 A. Yes. Just as I told you before,
25 cigarettes interfere with most of the things in

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1 our life, things that we did together. Like we
2 would go out to eat. When we go out to eat, at
3 first, he would not sit in the nonsmoking area
4 with me. He would sit in the smoking area.

5 It got to be so bad for me, so this is in
6 the last part of the years, too, when he started
7 trying to be more -- let me see -- he would be
8 more concerned about me and the smoke than he did
9 in the earlier years.

10 So he would -- we'd go sit -- while we
11 waiting for the waitress to come and serve us,
12 Jesse would have to go sit in the smoking area and
13 have a cigarette before we get served. During the
14 time we waited for our meal, Jesse would go over
15 in the smoking area and have a cigarette.

16 Q. After you ordered but before the meal
17 came?

18 A. That's right. And then after he would
19 finish his meal or either if we finished at the
20 same time, he would say, "Honey, do you mind
21 staying here. I have got to have a smoke." So he
22 would go over to the smoking area and have a
23 smoke.

24 Q. Were there times where the two of you
25 were watching a movie together at home where there

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1 was something that you really wanted to watch, or
2 a show together at home, and he would leave that
3 to smoke?

4 A. Yeah, this happened frequently, almost
5 all the time. You know, we'd be watching
6 something, and he would be very interested in it.
7 He would jump us, and he would have to run out and
8 get a smoke. He would go out and get a smoke and
9 come back in and go, "Honey, what's happening?
10 Tell me what happened. What's going on?"

11 I go, "You shouldn't have gone out to
12 smoke, and you would know what happened if you
13 would have stayed here." But then it would happen
14 over and over again. That's the things he do.
15 And even sometimes like if we would be laying in
16 bed, watching TV, watching The Late Show at night,
17 he does the same thing.

18 Q. I've got a picture. I think that this
19 was maybe before he retired from Portland Public
20 Schools. Was he still over at the school when
21 this was taken?

22 A. Yeah, he was working for the school
23 district at that time.

24 Q. And it's obviously that's you and him?

25 A. Yeah, and our grand-babies.

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1 Q. And that was at the beginning
2 grand-babies?

3 A. Yeah. No, those are the last
4 grand-babies.

5 Q. And what schools did he work at?

6 A. Well, he started working for Roosevelt
7 High School, and I think he worked there for a
8 year. Then the next school that he went to was
9 for Vestal Elementary School, and he stayed there
10 for maybe six years. And the next school he went
11 to was King School. And the last -- he stayed
12 there for about a year or so. Then the school
13 that he retired from St. Joseph's.

14 Q. Now, was there a picture of him taken
15 when he retired or right before he retired?

16 A. Yeah.

17 Q. Is this that picture?

18 A. Yes, it is.

19 Q. Is that on the stairway of the school?

20 A. Yes. That was taken at King School.

21 That was just about a year or so before he
22 retired.

23 Q. Did he like to have the grandchildren and
24 the children over to your house to watch
25 television?

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1 A. Yes, he would like that sometimes.

2 Q. I would like to talk about sports things
3 on television and him smoking. When kids would
4 come over, did he like to watch the basketball
5 games, football games, sports things on TV?

6 A. He and the boys, like most guys, I guess
7 on weekends like to watch sports together, and he
8 always did watch them. And he would have to go
9 the same thing that he did with him, get up and
10 say, "I got to have a smoke," and he would go out
11 in parts of the games and come back and ask the
12 boys what happened, the same thing.

13 Q. Did he go out and smoke when it was
14 raining?

15 A. Oh, yes. He did that at night, you know.
16 He would get up at night and put his robe on and
17 his slippers and go stand on the outside if it's
18 raining, or snowing, or whatever, and he would
19 smoke.

20 He kept doing it so much until that --
21 without putting a coat on, and I would go -- I
22 would start saying, "Honey, you should put a coat
23 on. You should put your pants on or something and
24 go out."

25 Then he started slipping on his slacks,

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1 and he would put his coat on over his robe and go
2 out and take a smoke.

3 Q. About what year was it that you remember
4 that he retired from the schools?

5 A. He retired in 1991.

6 Q. Okay. And when he retired, did he
7 continue to keep the job that he had which was the
8 side job from his janitorial business from years
9 before.

10 A. Yes, he did.

11 Q. I am going to show you some pictures that
12 I showed to the jury in opening statement. Was
13 this the side job that he had over at -- near --
14 next to Lincoln High School?

15 A. Yeah, that's the one that he kept out of
16 all of the jobs that he had. He worked there for
17 about 20 -- I don't know -- 20-some years. So he
18 kept that one.

19 Q. And that's Civic Stadium back here in the
20 background?

21 A. Yeah.

22 Q. In the West Hills?

23 A. Uh-huh.

24 Q. And then after he was retired, I would
25 like to give the jury kind of an idea of the

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1 routine that the two of you had. He would get up
2 in the morning. What time about?

3 A. Probably 6:00 or 6:30.

4 Q. And did he lay around or get up or --

5 A. He would get up, get all cleaned up, and
6 go out for coffee and cigarettes.

7 Q. And was one of the places that he liked
8 to go to smoke The Overlook?

9 A. Yes.

10 Q. And was that a place where the two of you
11 would go to eat sometimes, too?

12 A. Yes. Like -- yeah, that's The Overlook.

13 Q. Over on Interstate?

14 A. Yeah.

15 Q. Was The Overlook sort of located between
16 where you lived in Northeast [DELETED] and the
17 place where he worked down by Lincoln High School.
18 I mean in between, sort of.

19 A. Yeah. Uh-huh.

20 Q. It's on the way?

21 A. Uh-huh.

22 Q. And when was it that the two of you moved
23 to the house on Ainsworth?

24 A. 1990, I believe.

25 Q. All right. Is there a picture of the

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1 house on Ainsworth?

2 A. Yes.

3 Q. 35th?

4 A. Yes.

5 Q. And I guess I told the jury I took this
6 just a couple of weekends ago. Did the yard look
7 different when Jesse Williams lived there?

8 A. Oh, yeah. It looked like -- it was
9 beautiful when he lived there. You would see
10 lovely flowers and beautiful landscape. He worked
11 out in the yard all the time. That was something
12 that he does. He could smoke. He didn't even
13 have to come in the house to take a break. He
14 would just be outside working and smoking.

15 Q. Would he -- when it was nighttime or when
16 it was raining, where would he smoke there at the
17 house?

18 A. In the garage.

19 Q. And if it was a bad day out, would he
20 smoke in the garage with the door closed or what?

21 A. No. He would leave the door open,
22 sitting in front of the garage.

23 Q. How soon after he would wake up, would he
24 have his first cigarette?

25 A. As soon as he wake up. He would --

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1 before he stopped smoking -- before he stopped
2 smoking in the house, he would have it while he
3 was in bed, as soon as he would wake up.

4 After he stopped smoking in the house,
5 when he gets up, he takes a cigarette -- a couple
6 of cigarettes, in fact, and then he came back and
7 washed up and then he would go out to have more
8 cigarettes.

9 Q. When he would smoke the cigarettes
10 outside, would anybody from the neighborhood join
11 him or would he be out there by himself?

12 A. By himself, always.

13 Q. After he retired in '91, did he continue
14 to try to quit smoking?

15 A. After he retired from the school
16 district?

17 Q. Right.

18 A. Yes. That was during those years -- that
19 was the times when he tried most to try and stop
20 smoking.

21 Q. I think we heard a reference to him
22 getting Nicorette gum, the nicotine chewing gum.

23 A. Yes.

24 Q. Did he try that?

25 A. Yes.

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1 Q. Did he try that more than once?

2 A. Yes.

3 Q. What about patches? Did he try that?

4 A. Yes, he tried that, too.

5 Q. Tell the jury how well those things
6 worked for him when he tried to quit or slow down
7 with those products?

8 A. Well, Jesse, he would -- he would try for
9 a day or so. And he would cut down a few
10 cigarettes. And then sometimes, like, with the
11 patches, he would, you know -- I don't know the
12 routine of how they worked because I can't
13 remember, but he would smoke while he had the
14 patches on sometimes. He would have the patch on,
15 and he would still have to have a smoke with the
16 patch on.

17 Q. Did he ever talk to you about it or did
18 you talk to him about it?

19 A. Yeah, because I know that he was supposed
20 to have the patch on, and I would see him smoking,
21 and I would go, "Honey, didn't you put the patch
22 on this morning?" So then he goes, "Yeah, I got
23 it on," you know.

24 Q. And what about him being able to go along
25 without a cigarette? What about that?

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1 A. He couldn't. I mean he couldn't --
2 because he would still be smoking, and he had it
3 on.

4 Q. Did the time come when he quit using the
5 gum or quit using the patches?

6 A. Yeah.

7 Q. Was there any conversation about that?

8 A. Yes.

9 Q. Tell the jury about that.

10 A. Oh, I would just be upset with him and
11 tell him, you know, he should try harder. And
12 that he should, you know -- maybe he could stop if
13 he would try harder. And he said that he was
14 trying as hard as he can, but he just can't stop.
15 He wanted to. But he just couldn't. He said
16 that, "You just don't understand, Honey. You
17 don't understand." He would say that lots of
18 times.

19 Q. "You just don't understand"?

20 A. Yeah.

21 Q. Okay. What I have done for the last
22 couple of hours is to focus you and everybody on
23 what I think you said was the biggest problem for
24 the two of you and the family, which are
25 cigarettes.

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1 So now what I would like to do is talk
2 about the role that he played away from the
3 cigarettes. Was he a person who saw his role as
4 the provider for the family?

5 A. Yes.

6 Q. And how seriously did he take that?

7 A. Very. He worked two jobs always, mostly,
8 you know, trying to provide for me the best that
9 he could. He did a good job.

10 Q. And what about -- I know you were married
11 in 1952?

12 A. Yes.

13 Q. Let's go up to 1992, basically 40 years
14 after you got married. Were the two of you,
15 except in the cigarette area, were the two of you
16 close friends?

17 A. Yes. We was the best of friends.

18 Uh-huh.

19 Q. What about -- what about being
20 companions, in terms of liking to spend time
21 around each other?

22 A. We spent almost all our time together.
23 That's what we did. We spent it together with our
24 children and together. And after the children
25 were grown and they were out from the home, well,

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1 we spent our time together.

2 We went out almost every day like I was
3 telling before. He gets up in the morning and
4 goes out and smokes, well, he did this. And
5 in the meantime, I am at home getting dressed so
6 when he comes back so we can go back out and have
7 breakfast together.

8 Q. Did you go out for breakfast when you
9 went to The Overlook Restaurant or someplace like
10 that?

11 A. Yeah, we went to lots of restaurants and
12 The Overlook was one of them that we went to. We
13 did this practically every day.

14 Q. Would you eat lunch together?

15 A. Yes, sometimes we would eat lunch
16 together.

17 Q. And then what about after lunch? What
18 would you do after lunch on a daily basis?

19 A. After lunch, we would go for walks
20 sometimes and then come back home and watch the
21 television or he goes back out and comes back
22 home, goes and works in the yard during the summer
23 or the fall, springtime. And I am just in the
24 house doing whatever.

25 Q. I guess he died in '97. So it has been a

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1 couple of years since you were in the house. Was
2 the yard something that people would come by
3 and --

4 A. Oh, yeah. They would come by, and
5 especially the lady we bought it from, she lived
6 up in the West Hills. And she would come by like
7 every week just to look at the lawn. She said to
8 look at it. She said it's so pretty. It was
9 never liked that when she lived there. And people
10 stop by and give him compliments on it all the
11 time because it was pretty.

12 Q. Aside from the cigarettes, was Jesse
13 Williams the kind of person who liked to have
14 things orderly and clean and nice? Or was he
15 somebody who was a little bit more loose about
16 things?

17 A. Jesse Williams, he was so orderly and so
18 clean until I just couldn't stand it sometimes,
19 but that's just the way he was. He was really
20 orderly. He liked everything neat.

21 Q. And what about -- I am going to bring
22 something into it -- what about cigarettes and
23 ashtrays? How did that play in that life?

24 A. Well, I didn't like cigarette ashes in my
25 house. I didn't like cigarettes in my house,

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1 period. And I didn't want any ashtrays in the
2 house because they're filthy and just a mess.

3 So I would throw out the cigarette
4 ashtrays, if he brought one home. Because he
5 would sometimes just bring a cigarette ashtray
6 home for himself to smoke because I didn't buy
7 them.

8 So I would throw it out. And sometimes
9 it would find its way back into the
10 kitchen, and I would throw it out again. And it
11 found its way out in the garage. And that's
12 finally where they stayed.

13 Q. Did you ever have a conversation with him
14 about the word "addiction"?

15 A. Yeah.

16 Q. And can tell the jury about when it was?

17 A. Well, this is getting pretty close to
18 before he got -- it was during the '90s. And
19 especially about around '94 or '95, '96. These
20 are the times when I was really on him about it.

21 And I knew that they were addictive. And
22 so I would tell him -- I told him things. I would
23 say things to him like, "You smoke like, you know,
24 like those are cocaine people. That's just how
25 you treat your cigarettes, like you are addicted

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1 to -- like a drug addict or something."

2 That's what I would call him, and he
3 would get awfully angry and say, "That's not
4 true," and said "I've been smoking for like 40
5 years or 50 years." He didn't exaggerate the
6 years that he smoked, "And I don't have no
7 nothing. I don't have no cancer. I don't have no
8 heart problems, and I'm as strong as a younger
9 man," and all that kind of stuff like that.

10 Q. So did he by the addiction theory?

11 A. No, he did not.

12 Q. Okay. You see pictures of people in the
13 ads smoking a cigarette almost -- let me see that
14 exhibit over there, that exhibit. Throw that over
15 here one time.

16 You see these people in the ads. You see
17 them smoking and it's kind of elegant. They kind
18 of smoke, and it looks kind of cool.

19 When he smoked, did he smoke like that?

20 Or did he smoke like these people that you see
21 outside of the building where they are trying to
22 quick, get as much as they can?

23 A. He was smoking like, you know, until his
24 jaws sink in and hold it in for as long as he
25 possibly could and then blow out.

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1 Q. Did he take his time when he would sit
2 out there or stand out there in the rain and just
3 kind of take his time and smoke that cigarette and
4 have a good time with it? Or did he smoke and get
5 it done as quickly as he could?

6 A. He would smoke it like -- he would
7 just -- sometimes he would take his time.

8 Sometimes he would smoke it hurriedly because he
9 smoked so hard that the cigarette would burn fast.

10 So he would smoke it hurriedly because if
11 he is smoking real hard, it would burn fast. If
12 it's not, well, he would sit out there and
13 sometimes he would smoke two or three and that's
14 when he is taking his time because they don't
15 burn -- takes more time to burn.

16 Q. Now, when he would smoke a cigarette, did
17 he smoke it where he would like smoke a cigarette
18 and a couple hours later you would see him smoke
19 another one?

20 A. No, not that long. He would smoke a
21 cigarette and like chain smoke. He would smoke a
22 cigarette, put it out, light up another one.

23 Q. Did he ever in your presence, to you or
24 to the kids, talk about what the cigarette
25 companies said about how dangerous cigarette

M. Williams - D

1 smoking was?

2 A. Yeah. I would talk to him about it. The
3 kids, they probably did, but it didn't happen
4 around me as much. Sometimes, Jess, my second
5 oldest son, he lived with us for about six years.
6 About two years before Jesse died, he moved out
7 again.

8 So he would talk to him about it. He
9 even bought patches for him. He would leave --
10 find magazines, get magazines, leave out the
11 articles and tell his dad to read them. But I
12 don't think his dad ever read them because the
13 book would still be there and always as if it
14 never had been moved. So -- but he did that a
15 lot.

16 Q. Would Jesse Williams Sr. ever came back
17 with anything that believed about how dangerous
18 the cigarettes were?

19 A. Jesse would try to bring something back.
20 If he did bring something back, it would be
21 something that is showing that cigarettes is not
22 as dangerous.

23 Q. And I think I may have asked you this
24 before, but I can't remember right now. Did he
25 ever talk about other things causing cancer

M. Williams - D

1 besides cigarettes?

2 A. Yeah.

3 Q. Tell the jury what he said about that.

4 A. When we were talking about the cigarettes
5 causing cancer and that they are -- it's addictive
6 or that it is going to cause cancer, that's what
7 we were talking about, he goes, "Well, everything
8 is causing cancer. If you listen to the
9 Government, everything you eat, drink, or whatever
10 is causing cancer."

11 Q. Now, you said that he got to the point
12 where he was coughing up a whole lot of phlegm --

13 A. Yeah.

14 Q. -- or stuff?

15 A. Yes.

16 Q. When was it that that became a productive
17 cough?

18 A. Yeah, it began after he started seeing
19 Dr. Kern. It first began, not too bad by '91,
20 because that's when I first got him to get
21 Dr. Kern as a primary doctor.

22 And then he still did it, but it wasn't
23 quite so bad. And he wouldn't go to him no more,
24 for a good while -- I don't know -- maybe a year
25 or so, whatever, he wouldn't go to the doctor no

M. Williams - D

1 more.

2 The cough is still there. Okay. Well,
3 it got so bad and all of this stuff, that he was
4 wheezing every night and stuff. So I would call
5 the doctor's office and make an appointment myself
6 and then keep on after him so that he could keep
7 the appointment and then he would go to the
8 doctor.

9 Q. Okay. And that was related to, for
10 example, that appointment that he had in '91, I
11 think for chronic bronchitis, where they gave him
12 the antibiotics?

13 A. That is the first time that I got him to
14 go to Dr. Kern, yes, in 1991? And after then, he
15 didn't go for a while. He went to maybe -- he
16 would go maybe see, not Dr. Kern, but I think he
17 saw a couple of other doctors a couple, two times
18 or three times, and got antibiotics.

19 And then as we -- as the years went down
20 close to his death, well, he would start going to
21 the doctor a little bit more regularly, and
22 getting antibiotics.

23 Q. Now, in regard to this picture that I
24 have, is this a picture of two about the time that
25 he retired?

M. Williams - D

1 A. Yeah. That's about the time, around that
2 time.

3 Q. And at the time this picture was taken,
4 about how many cigarettes a day was he smoking
5 then?

6 A. Pretty close to the three the packages,
7 pretty close. Sometimes he might smoke three
8 packages or he might be smoking less, but it was
9 pretty close.

10 Q. What kind of Marlboros was he smoking
11 then?

12 A. He was smoking the Marlboro -- he was
13 smoking Marlboros, the other one, the other longer
14 ones?

15 Q. The 100s in the red pack?

16 A. Yeah, like the longer ones.

17 Q. Okay. After 1991, did he continue to
18 have coughing fits from time to time?

19 A. After '91?

20 Q. Yes.

21 A. Oh, yeah. They progressed until
22 before -- just before we went out for the break.
23 That's when he was coughing so hard and so bad
24 until I couldn't stand being around him. That was
25 in about 1996, or something like this. He was

M. Williams - D

1 really worse off.

2 Q. In that time period did you encourage him
3 to go in to see Dr. Kern?

4 A. Yes.

5 Q. What I would like to do now is to go
6 through, not from a medical perspective, we have
7 already heard about that, but from your
8 perspective, from what you experienced and he
9 experienced, what happened after the diagnosis.

10 Okay. Was the diagnosis something that
11 Jesse Williams was surprised about when he found
12 out it was cancer?

13 A. He was shocked. He was just in shock.
14 He couldn't believe that he had cancer. And when
15 he did -- when we finally -- after we went through
16 a series of doctors, and then when he finally got
17 to a Dr. Turner, who said it and diagnosed what it
18 was, and what caused it, that's when he became
19 angry.

20 Q. And what did Dr. Turner tell Jesse
21 Williams that caused him to become angry about the
22 cause of the cancer?

23 A. He told him that the cause of it was from
24 cigarettes, definitely.

25 Q. Did you have conversations with Jesse

M. Williams - D

1 Williams about what that meant to him? I don't
2 mean having cancer, but that it was caused by
3 cigarettes.

4 A. Just that, you know, that he should have
5 stopped smoking, and now he's got cancer. That's
6 basically what I said to him.

7 Q. And what did he say back to you?

8 A. He was like angry. And he goes, like,
9 "Yeah, well, those darn cigarette people finally
10 did it. They were lying all the time."

11 Q. Did he indicate whether or not he had
12 believed the things that they said about
13 cigarettes and health; in other words, what the
14 tobacco company had said?

15 A. No, not at that time, he didn't repeat
16 about what they had said. But he said he was
17 deceived by them. That's what he said, something
18 to that measure. It was that, you know, they
19 had -- he was like blind or something. I don't
20 know how he said it. I can't remember the exact
21 words that he said, but it was like he had been
22 portrayed.

23 Q. Did he talk to you about quitting smoking
24 once he had the diagnosis?

25 A. He couldn't.

M. Williams - D

1 Q. Did he try?

2 A. No, he didn't try.

3 Q. Did the doctor tell you whether this was
4 a disease that Jesse Williams was going to recover
5 from when he had the cancer diagnosis?

6 A. No, they told him right away. First,
7 when Dr. Segal told him that he had cancer, he
8 explained to us that he might live only six
9 months, if he didn't have treatments.

10 So then he made -- he made an appointment
11 with Dr. Turner, and we went to him. And he
12 explained that if he did have the treatments,
13 chemo treatments and radiation, that he might be
14 able to live two years. But that's the extent of
15 his life that he might have after he had those
16 treatments.

17 Q. Did the doctors tell him that he could
18 have surgery and that they could cut a tumor out
19 and make it so that he didn't have any cancer?

20 A. No, that's what they told us. That he
21 could not have -- because we asked -- we had a
22 whole slew of questions to ask them. And that was
23 one of the questions. And they said no, they
24 couldn't operate because the cancer was too close
25 to his heart to cut -- to take it out.

M. Williams - D

1 Q. So did he go through radiation and
2 chemotherapy?

3 A. Yes, he did.

4 Q. Did he get sicker and sicker as he got
5 closer to the time where he passed?

6 A. Yes.

7 Q. What about, as a result of chemotherapy?

8 Did he have any hair loss from that?

9 A. Yeah, he lost all of his hair.

10 Q. And did you have a picture taken of him
11 after he got the diagnosis with the cap on?

12 A. Yes. That's how he looked right there.
13 He was bald.

14 Q. What about -- and I don't mean to make
15 this any harder than I have to. But I want you to
16 tell the jury what it was like in your house after
17 he got diagnosed in terms of the way that the
18 routine of the days went compared to the way that
19 things had gone before the diagnosis for the two
20 of you.

21 A. Well, as you had brought out to the jury
22 before, that I have rheumatoid arthritis, and I
23 do, plus a few other diseases that you didn't
24 bring out. And I am disabled. So prior this,
25 Jesse had always done all of the housework. He

M. Williams - D

1 did most of the cooking. He did all the yard
2 work, and he also did his job.

3 After he was sick, well, then he couldn't
4 do those things any more like what he was doing
5 for me. He still did his job, and he would try to
6 do the lawn at times, but it was very hard for
7 him. So he was just getting sicker and sicker.

8 Q. You said that he continued to do his job.
9 That was the job over here next to Lincoln High
10 School?

11 A. Yes. Uh-huh.

12 Q. Was he a guy who liked to complain and
13 have everybody come help him?

14 A. Oh, no. I would beg lots of time to let
15 me go help him when I knew that he was very tired,
16 and he would never let me go. I think maybe he
17 let the girls go with him once.

18 Q. All right. Did the other kids offer to
19 go and help, too?

20 A. They offered to do it for him, so he
21 wouldn't have to go at all.

22 Q. Did he continue to work up until he died?

23 A. Yeah. He worked that Sunday, he and
24 Freda and Joanne. He didn't want them to go, but
25 they went any way. They got in the car and they

M. Williams - D

1 just followed him down there.

2 Q. So they drove over there? They followed
3 him over there?

4 A. Yeah, they just went over there. And
5 they worked with him that day. And that Monday
6 morning, about two o'clock or something, he died.

7 Q. All right. Now, was that last day, was
8 he any different that day than he usually was?

9 A. Yeah, he was more -- he was more
10 affectionate to me than he has been. He was
11 always affectionate to me, but he was trying to be
12 more intimate with me.

13 Q. Was that that evening?

14 A. Yeah.

15 Q. And when he was with the girls over at
16 the job, did they remark about how he had at the
17 job site?

18 A. Yeah.

19 Q. Tell the jury how he was.

20 A. They told me that he had taken them -- he
21 was always going to work and doing his job, but he
22 goes like, "Oh, girls, just come and have a seat
23 and just sit back. Don't worry about it. Don't
24 work now. Let's just have a talk. Just sit here
25 with me and talk with me." That's the way he was

M. Williams - D

1 that day.

2 Q. Was that unusual for him?

3 A. Very unusual.

4 Q. And what about that night that you said
5 that he was affectionate with you? Was he at
6 least from what you could see, before bedtime, was
7 he in particular distress?

8 A. No. He was more like at peace. He was
9 just calm. I don't know. He was different. He
10 was kind of like -- he was happier when we went to
11 bed that night, as I said.

12 Q. Tell the jury what happened in the middle
13 of the night. Did you get woken up?

14 A. Yes, I did.

15 Q. And had it been common for you to get
16 woken up in the middle of the night after he got
17 the diagnosis?

18 A. Yes. As I said before, I had been
19 waking up the last year or so by him coughing so
20 hard, you know, very hard. But this time he was
21 coughing hard, and it was different than the cough
22 that he had done before. So I just reached over
23 and turned the bed light on.

24 Because usually I just turn over and let
25 him cough or whatever. But this time he had a

M. Williams - D

1 little waste basket sitting on the side of him,
2 and he was sitting up and he got up. And when I
3 turned the light on, he was sitting on the side of
4 the bed. And he trying to spit and it was just
5 blood -- just blood all over. It's hard for me to
6 talk about that.

7 Q. And I am going to just go to maybe
8 leading questions. Did he tell you that he needed
9 to go to the bathroom and go into the bathroom?

10 A. Yes. Because when he was bleeding, in
11 the meantime, I dialed 911. And I -- they were
12 telling me -- I was telling them what was going
13 on. And I went to get -- in the meantime, I went
14 to get a towel out of the bathroom because I had a
15 cordless phone.

16 And I just went in the bathroom. When I
17 got back, he was up, standing up, and I said,
18 "Honey, sit down, you know, let me help you." He
19 said, "No, honey." He says, "I have to go."

20 I didn't know what he meant. He said, "I
21 have to go." And I just let him go by. And he
22 went into the bathroom.

23 I turned around, just a few seconds,
24 because I was still talking on the phone, and they
25 told me something to do for him, so I was going to

M. Williams - D

1 do it. And when I -- when I looked, he
2 was just slumped over with blood just stringing
3 like that, in the air. And he was dead.

4 Q. And by that time had your daughter come
5 downstairs?

6 A. Yeah. Joanne, she came downstairs. And
7 she is a CPR. So she had taken his vital signs
8 and everything, and she told me that he was gone.

9 Q. Okay. Do you want to take a minute
10 before I go on?

11 A. Yes, please.

12 Q. Maybe we could just take a minute.

13 THE COURT: Jurors, why don't you stand
14 and stretch.

15 (Pause in proceedings.)

16 THE WITNESS: I'm okay.

17 MR. THOMAS: All right. Thank you.

18 BY MR. THOMAS:

19 Q. When the ambulance came, did they take
20 Jesse Williams to the hospital or did they take
21 him directly to the funeral home?

22 A. They took him to the funeral home.

23 Q. During opening statement, I told the jury
24 that we had stipulated with Philip Morris that the
25 proof on the damages in this case, for both the

M. Williams - D

1 medical expenses and the funeral expenses totalled
2 \$26,485.80. That doesn't include an agreement
3 about responsibility, but what the amount of the
4 damages are.

5 So the way that that impacts you was, did
6 the family -- were there certain medical expenses
7 and funeral expenses for the treatment and the
8 funeral for the Jesse Williams?

9 A. Yes, there was.

10 Q. I don't need to go into it any more than
11 that.

12 Now, before Jesse Williams died, you
13 talked about a conversation, or conversations,
14 that you had with him about what he has been told
15 by the tobacco company and how he felt.

16 Did he say anything about what he was
17 going to do about that?

18 A. He not only said what he was going to do
19 about it, he went out to find an attorney to try
20 to help him to do something about.

21 He said -- his words were -- he said that
22 he would like to make a difference for people that
23 had been denied the evidence that cigarettes could
24 harm them. He would like to make a difference and
25 let other people know that they were being

1 M. Williams - D

2 deceived, he said.

3 And then that's when we went out -- and
4 Joanne helped us. And we found Mr. Gaylord who
5 was nice enough to help.

6 Q. Did you and your daughter, Joanne, and
7 Jesse Williams, before he died, meet with
8 Mr. Gaylord and I was there?

9 A. Yeah. Me, and Jesse, and Joanne met with
10 you and Mr. Gaylord, yes.

11 Q. Was it a surprise to the family that the
12 Jesse Williams died as quickly as he did?

13 A. Yes. It was. I remember that you guys
14 was going to make a tape of Jesse before he
15 passed, and he died within a week. You know, he
died within a week.

16 Q. Did you carry on with the idea that he
17 had of a lawsuit?

18 A. Yes. The kids and I talked about it, and
19 if we should do it, and we all agreed that we
20 should do it. And I asked Joanne, since she is a
21 better spokesperson than I am, and also that she
22 drives and I don't, if she would be the
23 representative for me and is doing so.

24 Q. And did she help you in that way?

25 A. Yes, she did.

M. Williams - D

1 Q. Are you the personal representative now
2 for the case?

3 A. Yes, I am.

4 Q. And why was it that you decided to carry
5 on with the lawsuit? Why did Mayola Williams
6 decide to carry on with the lawsuits?

7 A. Because I felt that I wanted to -- what
8 Jesse had started, I wanted to finish it. And
9 then I felt, also, that I thought that tobacco
10 companies should be responsible or take some
11 responsibility for what they were doing to people.

12 And that included Jesse, my husband, and
13 the only way that I knew to do this is by having a
14 claim against them.

15 Q. Is part of what you are seeking in the
16 lawsuit to have compensation for the expenses and
17 the pain and suffering for Jesse Williams and from
18 having Jesse Williams gone from your life?

19 A. Could you repeat that?

20 Q. Yes. Is part of the reason that you are
21 pursuing the lawsuit for compensation for the
22 medical and funeral expenses and for the pain and
23 suffering damages, the loss of his companionship,
24 because he is not in your life any more?

25 A. Yes. That's part of it, too.

M. Williams - X

1 MR. THOMAS: Thank you.

2 MR. DUMAS: It's just going to be a
3 minute, Your Honor, while I am setting up.

4 THE COURT: Sure.

5

6 CROSS-EXAMINATION

7

8 BY MR. DUMAS:

9 Q. Ms. Williams, my name is James Dumas. We
10 met previously during your deposition. Do you
11 recall that?

12 A. Yes, I do.

13 Q. Okay. And I am one of the lawyers for
14 Philip Morris. I have some questions for you. I
15 don't know that we're going to get done before
16 5:00, but I'll try. We'll take our time. If you
17 need a break, just ask her Honor, and I am sure
18 she'll accommodate you. I am not going to talk
19 with you about that night, okay?

20 A. Thank you.

21 Q. All right. But I do have some questions
22 about your life with Mr. Williams.

23 We're going to start there.

24 MR. DUMAS: Does that block the jury's
25 view?

1 M. Williams - X
1 BY MR. DUMAS:
2 Q. You graduated from high school here in
3 Portland?
4 A. Yes.
5 Q. What school did you go to?
6 A. I didn't graduate, but I went to 12th
7 grade.
8 Q. What high school?
9 A. Lincoln High School.
10 Q. Right here downtown?
11 A. It wasn't here then. It was over by the
12 college down on Broadway.
13 Q. And you and Mr. Williams were married in
14 1952?
15 A. Yes.
16 Q. And about a year later he was discharged
17 from Fort Lewis, from the Army?
18 A. Yes.
19 Q. And he had been stationed up in Fort
20 Lewis, Washington?
21 A. Yes.
22 Q. And he was a sergeant, and he had some of
23 those stripes on his arm?
24 A. Yes, uh-huh.
25 Q. And after you folks were married, you

M. Williams - X

1 started your family?

2 A. Yes.

3 Q. As I recall, you told us that I had Glenn
4 in 1953, late 1953, I think, and Darlene in 1954,
5 and Joanne, who is here in court, in 1955, and
6 followed by Jesse Jr. in '57 or something like
7 that?

8 A. Yeah.

9 Q. So by the time you and Mr. Williams sort
10 of started your life together, post-Army, after
11 the Army --

12 A. Yes.

13 Q. He came down to Portland and after a year
14 or two, I think you said, he started working for
15 the City of Portland for the Water Bureau?

16 A. Yes.

17 Q. I think he was doing water meter work?

18 A. Yes.

19 Q. Within a couple years from that, you
20 folks were well on your way to raising your
21 family?

22 A. Yes.

23 Q. So by 1955, you had three children?

24 A. Yes.

25 Q. And Mr. Williams was working full-time

M. Williams - X

1 for the City?

2 A. Yes.

3 Q. Now, prior to that, of course, he had in
4 the Army for, I think you said, five years?

5 A. Yeah.

6 Q. He did a five-year hitch, joined up in
7 1948, after he graduated from high school down
8 there in Crockett, Texas?

9 A. Yes.

10 Q. And we'll talk a little bit about the
11 Army in a second. All of your children, the six
12 children that you and your husband raised, they
13 all live [DELETED] area?

14 A. Yes.

15 Q. I think you indicated that that
16 photograph that was showed, the last two or three
17 of your grand-babies, some of them probably aren't
18 such babies any more, but I think you told us you
19 have about 13 grandchildren?

20 A. Yes.

21 Q. And all of them live in the [DELETED]
22 area, too?

23 A. All except one.

24 Q. And you're real close with all of your
25 children, aren't you?

M. Williams - X

1 A. Yes.

2 Q. Stay in close contact with them
3 regularly?

4 A. Yes.

5 Q. You see them often? They come by and
6 visit a bunch?

7 A. Yes.

8 Q. Spend holidays together and all that?

9 A. Yes. We don't celebrate holidays but
10 they do come by.

11 Q. Your grandchildren, you're, of course,
12 close with them?

13 A. Yes.

14 Q. Now, when you and Mr. Williams were
15 raising your children, did you do your best to
16 teach them to make decisions for themselves?

17 A. Definitely.

18 Q. Did you try your best to teach them about
19 consequences of their actions?

20 A. Yes.

21 Q. You talked to them about taking
22 responsibility ability for the things that they
23 did or didn't do in their lives?

24 A. Yes.

25 Q. You said that Mr. Williams was -- you

M. Williams - X

1 didn't use the word, but I jotted down "stubborn,"
2 that I may not be the right word. You said that
3 when Jesse made up his mind, that's the way it
4 was, for him anyway?

5 A. Yes.

6 Q. So he himself was a strong man, an
7 independent thinker?

8 A. Yes.

9 Q. A guy who made up his own mind about what
10 was right or wrong or what was good or bad for
11 him?

12 A. Yeah.

13 Q. Did you talk to your children, you and
14 your husband, as they were going up, about the
15 importance of trying your best to lead a healthy
16 lifestyle?

17 A. Yes, we did.

18 Q. And, of course, you taught them not to
19 drink excessively and to eat good foods and do
20 what was right to grow up strong?

21 A. Right.

22 Q. And that included -- you told us a little
23 story about Calvin and the broomstick. You and
24 your husband worked on teaching your children not
25 to smoke cigarettes?

M. Williams - X

1 A. Right.

2 Q. And I think you indicated that your
3 husband told them that it was a bad habit smoking
4 cigarettes, and that it was bad for their health?

5 A. No, I didn't say that. But he did tell
6 them it was a bad habit.

7 Q. Okay. When Mr. Williams was in Japan for
8 a while, before he went to the Korean conflict,
9 when he came back, he taught himself a little
10 Japanese, right?

11 A. Yeah, he speaks some Japanese when he
12 came back.

13 Q. And he lied to speak Japanese with
14 Joanne?

15 A. With the kids, right.

16 Q. In the conflict in Korea, as I recall,
17 you indicated that he was a truck driver, isn't
18 that right, for the artillery group there?

19 A. Yeah.

20 Q. And he wasn't actually in combat, but he
21 was pretty close to it?

22 A. Yeah, he was very close.

23 Q. You talked quite a bit about your husband
24 here today.

25 I wanted to ask you a couple of other

M. Williams - X

1 question about things that he liked to do or
2 didn't like to do. We talked a lot about smoking,
3 and you talked about his lawn and his yard work?

4 A. Uh-huh.

5 Q. He didn't have much of a problem with
6 doing things like drinking? He wasn't much of a
7 drinker, right?

8 A. No.

9 Q. He didn't much care for that. He would
10 have a drink every now and then, but it wasn't a
11 problem for him?

12 A. He didn't hardly ever have a drank, once
13 in a while.

14 Q. He didn't have a gambling problem?

15 A. He had gambling -- he had gambled, but he
16 didn't have a problem.

17 Q. That's what I mean, like most folks, you
18 would do it occasionally, but it wasn't no big
19 deal?

20 A. Yeah.

21 Q. He didn't have a weight problem?

22 A. No.

23 Q. So in some respects he was a pretty
24 disciplined guy. I know you said he was orderly,
25 he liked things --

M. Williams - X

1 A. Yes.

2 Q. -- where they're supposed to be --

3 A. Uh-huh.

4 Q. -- and that's takes a certain amount of
5 discipline, doesn't it?

6 A. For some people, yeah.

7 Q. I gather, and I think Mr. Thomas asked
8 you this. To raise his family, he worked hard?

9 A. Very hard.

10 Q. In fact, while he was working full-time
11 for the school district, he was working part-time,
12 if you will, on his own independent business; is
13 that right?

14 A. Yes.

15 Q. And he had run that independent business
16 full-time after he left the City, and as I recall,
17 he worked for the City, oh, roughly around 1954 or
18 so, and he worked there for about eight years. Is
19 that about right?

20 A. No, that is not right.

21 Q. I might have that wrong. How many years
22 did he work for the City?

23 A. For the city -- I'm sorry.

24 Q. Yeah.

25 A. Yeah, he worked for the City for about

M. Williams - X

1 seven years.

2 Q. Okay. About seven years. And when he
3 stopped doing that, he decided to go out on his
4 own and set up his business, his janitorial
5 business. After a couple of years, he got some
6 clients and he managed that business full-time for
7 a whole bunch of years until he started working
8 for the Portland Public Schools around 1981 or so?

9 A. His health reasons caused him to do that,
10 yes.

11 Q. I guess what I am trying to get at here,
12 and I'm not doing a very good job of it, what I'm
13 trying to get at is that he worked hard and made a
14 success of his own business?

15 A. Yes, he did.

16 Q. To support his family?

17 A. Yes.

18 Q. And when he decided to go because of
19 health reasons, I guess, to work for the School
20 District, he worked a little bit on the side to
21 help support his family?

22 A. The health reasons is when he quit
23 working for the City and went into business for
24 himself.

25 Q. I am sorry. I got that wrong. But in

M. Williams - X

1 any event, he didn't want to give up his private
2 janitorial business completely when he started
3 working for the City?

4 A. No, he didn't.

5 Q. Excuse me. When he worked for the school
6 district.

7 When he worked for the school district,
8 doing janitorial work, was that work mostly in the
9 evening?

10 A. Yes, it was.

11 Q. Now, I want to direct your attention now
12 to some of the events that occurred in Mr.
13 Williams' life with regard to his health before
14 the diagnosis of cancer.

15 A. Okay.

16 Q. Isn't it true that Mr. Williams developed
17 a very bad cough in the early '70s that continued
18 on up until the time of his death?

19 A. No, the '90.

20 Q. Mrs. Williams, we -- and I don't want to
21 make this a difficult process -- but I indicated
22 to you when we began that we had met during your
23 deposition. Do you recall that?

24 A. Yes, I remember.

25 Q. And I don't think you had ever given a

1 M. Williams - X

2 deposition before, but that was a proceeding where
3 a court reporter, like Katie here, was present, a
4 court reporter. A record was kept, a transcript
5 of the proceedings. And lawyers asked you
6 question. I think exclusively the lawyers for the
7 defendant asked you frankly a whole bunch of
questions.

8 A. Yes.

9 Q. It went on for a long time. And you
10 answered those question as accurately and as best
11 you could under the circumstances, didn't you?

12 A. Right.

13 MR. THOMAS: I am going to have to
14 object. The form of the question is being used
15 as a set-up for impeachment, but I object to the
16 form of the question because the form of the
17 question that I heard was that in the '70s a
18 condition developed which led to his -- right up
19 to his death. And I object.

20 THE COURT: I can't rule on your
21 objection because I haven't heard where this
22 line of questioning is going.

23 In any event, it will be up to the jury
24 to decide whether the testimony is consistent or
25 inconsistent to deposition testimony.

M. Williams - X

1 Go ahead, Mr. Dumas.

2 BY MR. DUMAS:

3 Q. During the deposition, your lawyers were
4 present and questions were asked of you and you
5 answered to the best of your ability?

6 A. Yes.

7 Q. I am going to ask, Mrs. Williams, if you
8 recall one of the lawyers asking you, for Philip
9 Morris, asking you this question and you giving
10 this answer. And I'll go slow. Counsel, Page 55,
11 Line 15.

12 "Question: When did he develop a cough
13 from smoking?

14 "Answer: He developed a cough from
15 smoking in the early '70s; really very, very
16 bad. And it continued on to his death."

17 Do you call answering that question at
18 that time?

19 A. I can't remember because I was under
20 stress at that time.

21 Q. I understand that. And you are under
22 stress now today and I am not trying to make it
23 worse for you.

24 A. I know, but I just don't remember.

25 Q. I am trying to get as much information

M. Williams - X

1 out as I can, all right?

2 A. Yes.

3 Q. Now, isn't it true that because of that
4 really bad cough that he developed in the '70s, he
5 went to go see his doctor?

6 A. Yes. He had coughs in the '70s, and he
7 did go see his doctor. But it wasn't the same
8 chronic cough that he developed in the '90s.

9 Q. I understand that you testified that the
10 coughing got a whole lot worse, right?

11 A. It didn't continual, no, but it developed
12 in a different way in the '90s than it was
13 in the '70s.

14 Q. And when he went to see his doctors at
15 that time, he came back and he told you that the
16 coughing was from smoking, right?

17 THE COURT: At which time?

18 MR. DUMAS: In the '70s.

19 THE WITNESS: Yes, the one doctor that he
20 went to told him that it was a cigarette cough.

21 BY MR. DUMAS:

22 Q. And Mr. Williams at that time also told
23 you that the doctor recommend to him that he stop
24 smoking?

25 A. I don't remember.

M. Williams - X

1 Q. I'll ask you -- it's the same deposition,
2 Mrs. Williams. Do you recall this question and
3 giving this answer?

4 MR. THOMAS: Page citation.

5 MR. DUMAS: Give me a chance, and I'll do
6 that. Page 55, Line 22.

7 "Question: He visited a doctor about
8 that cough?" Referring to that cough in the
9 '70s.

10 "Answer: Cough.

11 "Question: And what did the doctors tell
12 him?

13 "Answer: To stop smoking.

14 "Question: And they told him that the
15 cough was due to his smoking?

16 "Answer: Yeah. Said it was bad for him.

17 "Question: Did he believe them?

18 "Answer: Yeah.

19 "Question: Was the early '70s the first
20 time that a doctor told him to quit smoking?

21 "Answer: I think so, yes.

22 "Question: Did any doctors after that
23 tell him to quit smoking?

24 "Answer: Yes."

25 Do you recall that?

M. Williams - X

1 A. Yes.

2 Q. And when Mr. Williams came home with that
3 information, did you talk to him about the
4 important of him quitting smoking at that time?

5 A. Not really.

6 Q. You testified today about Mr. Williams
7 work for the Portland Public Schools. He retired
8 from the Portland Public Schools around 1991; is
9 that right?

10 A. Right.

11 Q. And the reason he had retired was because
12 he was coughing so much that he was getting sick,
13 right?

14 A. He retired because he was getting sick,
15 yes.

16 Q. And he was coughing a lot. That was one
17 of the reasons why he was getting sick, right? In
18 1991.

19 A. I don't -- I don't know if that's the
20 exact way to say it, but he did quit. In 1991 he
21 was getting sick.

22 Q. Mrs. Williams, I will ask you if you
23 remember this question and answer.

24 MR. DUMAS: Counsel, Page 97, Line 13.

25 "Question: Why did he retire in 1991?

M. Williams - X

1 "Answer: He had gotten to having so
2 much -- he was having this cough so much and
3 everything. He was being sick all the time from
4 it."

5 That's the way it was, right?

6 A. Yes.

7 Q. Mr. Thomas asked you about a meeting that
8 you and Mr. Williams had with himself and
9 Mr. Gaylord, I guess it was, before he died.

10 Do you recall that?

11 A. Yes.

12 Q. You remember that was almost exactly two
13 months before his death that these lawyers were
14 hired for this case.

15 Do you recall that?

16 A. I don't remember the time.

17 Q. Okay. If these lawyers have represented
18 to us in written form that they were retained on
19 January 17th, 1997, you wouldn't disagree with
20 that, would you?

21 A. No.

22 Q. Fair enough.

23 I've got some notes here, Mrs. Williams,
24 and I am going to really try hard not for cover
25 anything that you said directly on direct exam

M. Williams - X

1 here, so just give me a second. All right.

2 When you first met Mr. Williams, jumping
3 back now to the early -- very early years -- when
4 you first met Mr. Williams in 1951, I think you
5 said, then you guys got married in 1952, he was
6 already smoking when you first met him, correct?

7 A. Yes, he was.

8 Q. And he talked to you about his days
9 in the Army, right?

10 A. Yes, he did.

11 Q. And he told you that before going to
12 Korea, he had never smoked before?

13 A. Right.

14 Q. Did he tell you why he never smoked
15 before?

16 A. Well, it is the same reasons why that we
17 were teaching our children not to smoke because it
18 was a bad habit, and I believe that's what his
19 parents taught him.

20 Q. Which is probably why his brother was
21 sneaking around Crockett, Texas smoking because he
22 had been taught probably just like Jesse that the
23 folks didn't approve of that?

24 A. Yeah.

25 Q. Is that a yes?

M. Williams - X

1 A. Yes.

2 Q. Now, when you first met Mr. Williams in
3 1951, he was smoking and he was smoking every day,
4 right?

5 A. Yes, he smoked every day.

6 Q. You indicated on direct exam that, to
7 your best memory, the brand he was smoking when
8 you first met him was Philip Morris?

9 A. Right.

10 Q. And do you recall the color of the pack
11 way back then?

12 A. No, I can't.

13 Q. Those were filtered cigarettes, is that
14 your memory?

15 A. I can't remember that either.

16 Q. It is a fair statement that you cannot
17 recall when it was Mr. Williams switched to
18 Marlboro?

19 A. I can't remember exactly when. It was --
20 I just can't remember. Probably -- I don't
21 remember.

22 Q. That's fine. I will be asking you some
23 questions that go back a ways, and it's okay for
24 you to say you don't remember. In fact, you
25 couldn't recall if it was the '50s or the '60s?

M. Williams - X

1 A. I know it wasn't in the '50s.

2 Q. Was not?

3 A. Uh-huh.

4 Q. Some time after that?

5 A. Yes, some time after.

6 Q. Back in 1953, just a year after you folks
7 were married and living together, Mr. Williams
8 would start smoking first thing in the morning,
9 right out of bed, wouldn't he, back in 1953?

10 A. No.

11 Q. Just a few days ago, I was provided a
12 transcribed statement of an interview that you
13 gave apparently on February 2nd, 1999, with
14 Mr. Tauman who is present in the courtroom, and a
15 Dr. Michael Resnick (ph). Do you recall that
16 interview?

17 A. Yes.

18 Q. And I'll ask if you recall Dr. Resnick
19 ask you this question and you giving this answer,
20 Page 2, counsel.

21 "Answer: After we got married in 1952.

22 "Question: In 1952. And what was his
23 smoking behavior like when you could observe it
24 on a regular basis?

25 "Answer: Well, he smoked when he would

M. Williams - X

1 get up in the morning.

2 "Question: How long after he got up
3 would he smoke?

4 "Answer: I really, to tell the you
5 truth, I don't know exactly. When we first got
6 married, I have to go through it from time to
7 time, when we first got married, I didn't get up
8 with him, I didn't get up and fix breakfast or
9 anything. Then later on, maybe closer to 1953,
10 I was more -- I was with him. He would smoke as
11 soon as he would get up actually.

12 "Question: Was there a pack by the bed?

13 "Answer: Yeah. He always kept his
14 cigarettes close."

15 MR. THOMAS: Just a minute.

16 MR. DUMAS: Did I misread it?

17 MR. THOMAS: You didn't finish it.

18 BY MR. DUMAS:

19 Q. "Question: Did he smoke when he got up
20 before he got out of bed?

21 "Answer: Not until years later, he did
22 that."

23 A. Years later, he did.

24 Q. Okay. As I understand it, you would --
25 you would purchase Mr. Williams' cigarettes pretty

M. Williams - X

1 much for the better half of your marriage, the
2 early years?

3 A. Yes.

4 Q. Mr. Williams enjoyed smoking with his cup
5 of coffee, didn't he?

6 A. He never had much coffee at home, so I
7 don't know.

8 Q. But when he would go out, he would go out
9 to smoke his cigarettes and drink coffee, right?

10 A. Yes. He would go out and have coffee and
11 smoke cigarettes.

12 Q. And he enjoyed that. It was one of his
13 ways of socializing, wasn't it?

14 A. I don't know. I mean, maybe, yeah, it
15 could be.

16 Q. Now, you testified a little bit today
17 about low-tar cigarettes. Isn't it true,
18 Mrs. Williams, that actually Mr. Williams only
19 tried low-tar cigarettes just a couple of times in
20 the '80s or '90s, but he went back to regular
21 Marlboro?

22 A. I don't remember how often he tried them,
23 but he was smoking them in the '90s and the '80s,
24 he was smoking the low-tar cigarettes.

25 Q. Was he smoking them occasionally or

1 M. Williams - X
2 regularly?
3 A. Like I said before, when he was trying to
4 quit smoking, that's when he would smoke the
4 low-tar cigarettes.
5 Q. I'm sorry, I am just a little confused.
6 MR. DUMAS: Page 79, counsel.
7 BY MR. DUMAS:
8 Q. I ask you if you recall these questions
9 and answers, Line 4.
10 "Question: Did your husband ever switch
11 to low tar and low-nicotine cigarettes?
12 "Answer: At times. He would try them
13 but he would go back to Marlboros. He tried
14 them at one time, I remember.
15 "Question: When did he try them?
16 "Answer: I can't remember the time but I
17 remember him trying it once."
18 MR. THOMAS: Excuse me, are we still on
19 79?
20 MR. DUMAS: Yeah.
21 "Question: When did he try them?
22 "Answer: I can't remember the time, but
23 I remember him trying it once.
24 "Question: Do you remember what decade
25 it was in?

M. Williams - X

1 "Answer: In the '90s or '80s. I can't
2 remember.

3 "Question: Did you ever encourage him to
4 switch to lower tar or lower nicotine
5 cigarettes?

6 "Answer: No. I just asked him to stop
7 smoking.

8 "Question: Did he like the low tar or
9 low-nicotine cigarettes?

10 "Answer: I don't know if he liked them
11 or not, but he just didn't smoke them.

12 "Question: He tried them, but then went
13 back to Marlboro?

14 "Answer: Yes."

15 Did Mr. Williams ever tell you why he
16 tried low-tar cigarettes?

17 A. To try to cut down on smoking.

18 Q. Now, on one occasion, throughout the
19 years, you would -- you would talk to Mr. Williams
20 about articles that you would see in the
21 newspapers or the magazines about the scientific
22 findings and the scientific studies and reports
23 about smoking and health, right?

24 A. Yes, I did.

25 Q. And you did that because in your mind,

M. Williams - X

1 you felt cigarettes were bad for Mr. Williams'
2 health?

3 A. Yes.

4 Q. And you remember -- in your own mind, you
5 remember hearing about the 1964 Surgeon General's
6 Report about smoking and health?

7 A. Yes, I remember.

8 Q. And you remember hearing about that
9 report and about the Surgeon General saying that
10 in his opinion there was a link or association
11 between cigarette smoking and cancer?

12 A. No, I don't remember him saying that --
13 THE COURT REPORTER: I'm sorry. I
14 couldn't hear you.

15 THE WITNESS: No, I don't remember him
16 saying that was a link between cancer and
17 cigarette smoking at that time.

18 BY MR. DUMAS:

19 Q. You remember seeing the warnings on the
20 cigarette packs?

21 A. I remember seeing the early warnings on
22 the cigarette packs, yes.

23 Q. And you talked to Mr. Williams about
24 those?

25 A. Not so much.

M. Williams - X

1 Q. You didn't?

2 A. Not at -- not at that time, not so much.

3 Q. Did you show Mr. Williams the warnings on
4 the cigarette packs? Did you point them out to
5 him?

6 A. No, I've never pointed them out to him.

7 Q. You never did that?

8 A. No.

9 Q. I ask if you recall this questions and
10 this answer, Mrs. Williams?

11 MR. DUMAS: Page 7 -- line 12, Counsel.

12 Q. You testified earlier that there were
13 times that you would call your husband's
14 cigarettes cancer sticks. when did you do that?

15 "Answer: Oh, there would be times, like
16 he would be smoking, like you asked me
17 previously, about did we see the signs on the
18 cigarettes, the warning signs on the smoking
19 tobacco. I would show those to him and tease
20 him and say, like, quote, 'That's okay. You go
21 on and keep on smoking that cancer cigarette.'

22 "And then he would go, 'Okay, yeah, you
23 know, the tobacco companies, don't even say
24 they're cancer sticks, so I can smoke them.'

25 "And I said, 'Read the slogan on there

1 M. Williams - X

2 where it says the Surgeon General warns against
3 it.' And he'd say, 'But it didn't say that it
would give me cancer.'"

4 A. Yes.

5 Q. One more question.

6 "Question: So what time period did you
7 start telling him that cigarettes were cancer
8 sticks.

9 "Answer: Somewhere during the '70s."

10 Do you remember that, having that
11 discussion with that Mr. Williams?

12 A. I don't remember having the discussion
13 with him.

14 Q. All right. Did your folks have that
15 record, that old song, "Smoke, Smoke, Smoke That
16 Cigarette"?

17 A. Yes, they did.

18 Q. Did you ever talk to Mr. Williams about
19 that song, about what it meant?

20 A. No.

21 Q. Now, did you -- did you read Reader's
22 Digest magazine, that little magazine?

23 A. Occasionally.

24 Q. And did Mr. Williams read that magazine?

25 A. Yes, he did.

M. Williams - X

1 Q. Okay. And do you recall ever seeing
2 yourself personally, or ever talking with
3 Mr. Williams about an article that a witness
4 testified about that appeared in Reader's Digest
5 in 1952?

6 A. No.

7 Q. "Cancer by the Carton"?

8 A. We didn't read the magazine that far
9 back.

10 Q. When did you start reading it?

11 A. I can't remember.

12 Q. Mr. Williams was an intelligent man?

13 A. Yes.

14 Q. He was an educated man?

15 A. Yes.

16 Q. He was generally well-informed about
17 current events going on around him?

18 A. I suppose so.

19 Q. He read books?

20 A. Yes, magazines.

21 Q. He read magazines?

22 A. Yes.

23 Q. He read The Oregonian on a regular --

24 A. Yes.

25 Q. -- daily basis. He liked to read?

M. Williams - X

1 A. No, he wasn't a person who liked to read
2 a lot.

3 Q. But he would read The Oregonian daily,
4 wouldn't he?

5 A. He would read the sports section of The
6 Oregonian daily.

7 Q. He would read the sports section first,
8 but then he would go and he'd read the rest The
9 Oregonian, wouldn't he?

10 A. Maybe, sometimes.

11 MR. DUMAS: Page 58, line 10, Counsel.

12 BY MR. DUMAS:

13 Q. Ms. Williams, I ask if you recall these
14 questions and these answers:

15 "Question: Did he read the newspaper?

16 "Answer: Yes.

17 "Question: Did you subscribe to a
18 newspaper?

19 "Answer: Yes. Sometimes during the
20 years, we did.

21 "Question: What newspaper did you tend
22 to read?

23 "Answer: He read The Oregonian daily.

24 When he'd go out and do the socializing after,
25 you know, go out to have his coffee and smoke,

1 M. Williams - X

2 well, he'd read the newspaper.

3 "Question: And did he start reading The
4 Oregonian from very early in the relationship?

5 "Answer: Yeah. He also read The Scan.
6 That was the little local paper that they put
7 out in our neighborhood.

8 "Question: Did he tend to read the
9 newspaper pretty much front to back? What I
mean by that, everything in it?"

10 THE COURT REPORTER: I'm sorry, would you
11 repeat that question.

12 MR. DUMAS: Sure.

13 BY MR. DUMAS:

14 Q. "Question: Did he tend to read the
15 newspaper pretty much front to back? What I mean
16 by that, everything in it?"

17 "Answer: Basically, sports. He would
18 read the sports first, and then the rest of it."

19 Do you recall that answer?

20 A. Yes.

21 Q. You also -- you and your husband
22 subscribed to Time magazine, right?

23 A. Yes, we did.

24 Q. Okay. And Mr. Williams read Time
25 magazine in the '50s, the '60s, and the '70s,

M. Williams - X

1 didn't he?

2 A. Yes.

3 Q. He also liked to watch TV?

4 A. Yes.

5 Q. And that would includes the evening news?

6 A. Yes.

7 Q. And he was the kind of man who liked to

8 listen to -- what do you call that -- talk radio

9 in the car?

10 A. Yes.

11 Q. Where they talk about current events?

12 A. I don't know. He had on a station where

13 they would just be talking on the radio. I didn't

14 pay much attention to it.

15 Q. Okay. I understand that he also read

16 Consumer Reports magazine; is that right?

17 A. Yeah, he had read it some.

18 Q. Do you recall when the kids were growing

19 up they would come home from school after they had

20 been taught things in school about smoking and

21 health, and they would -- they'd come home, and

22 they would ask Mr. Williams to quit smoking?

23 A. No, I don't remember that.

24 Q. They never did that?

25 A. I don't remember them doing it.

M. Williams - X

1 Q. Again, I am going to refer you to the
2 interview that you had with Dr. Resnick with
3 Mr. Tauman present.

4 MR. DUMAS: Page 7, Counsel.

5 BY MR. DUMAS:

6 Q. "Question: Did the kids ask him to stop?

7 "Answer: No, he just stopped.

8 "Question: Did the kids ask him to stop
9 smoking?

10 "Answer: Oh, yes, they did.

11 "Question: I know in school kind of
12 early on, they did a lot of education about
13 smoking. I don't know about when you were in
14 school, but a lot of times kids came home to
15 tell their moms and dads they'd want them to
16 stop.

17 Did you recall your daughter being
18 present there and answering, saying, quote, "We
19 did that all the time. Please stop smoking. It
20 was killing him and it was so stinky and it
21 bothered mom and was making her sick, and, you
22 know, stop."

23 A. I don't remember that.

24 Q. You don't? Okay.

25 MR. THOMAS: I am going to object to

1 M. Williams - X

2 that. She asked -- he asked her if she said,
3 and then, apparently, her daughter said.

4 THE COURT: Goes to the weight of what
5 the witness is saying. The objection is
6 overruled. The jury is the judge of the
7 credibility and reliability of all of the
8 witness' testimony.

9 Proceed, please, Mr. Dumas.

10 MR. DUMAS: Thank you, Your Honor.

11 BY MR. DUMAS:

12 Q. Do you have any reason to think,
13 Mrs. Williams, that during those times when you
14 had talked to Mr. Williams about smoking, and he
15 would say those things about his opinions about
16 whether smoking was linked to health effects, do
17 you think that he really deep down inside felt or
18 believed that smoking was harmful to his health?

19 A. He never said it was. And he -- he
20 always talked against it.

21 Q. I know that, but I am asking you what you
22 thought. Did you have any reason to believe that
23 he really did understand that cigarettes could be
24 harmful to his health?

25 A. I don't know.

Q. Mrs. Williams, I am going to show you

M. Williams - X

1 some things that are in evidence and we're going
2 to talk about them briefly, okay?

3 A. Okay.

4 Q. And what I am going to do, because of --
5 I don't want you to have to come off of the
6 witness stand -- I am going to hand you a packet
7 right in the same order that I'm going to be
8 showing the jury over there, okay?

9 A. Okay.

10 Q. And you will just be flipping through the
11 pages. Okay. Most of them, Mrs. Williams, are
12 marked with the exhibit number in the lower
13 right-hand corner and some of them actually have
14 exhibit stickers on them, okay?

15 A. Okay.

16 Q. And I know that is a thick stack of paper
17 there, but I don't think it it's going to take
18 quite as long as it may look.

19 MR. THOMAS: Do you have a copy of these,
20 so that I can see what you're doing? I can go
21 stand up next to her.

22 MR. DUMAS: This should be -- this should
23 be exactly the same packet.

24 MR. THOMAS: Okay. Thank you.

25 MR. DUMAS: And Mr. Randles is going to

M. Williams - X

1 help me using the ELMO device, so that hopefully
2 the jurors at the far end of the jury box will
3 be able to see as well.

4 BY MR. DUMAS:

5 Q. Now, Mrs. Williams, we're not going to go
6 through these entire articles, because they're way
7 too long at this point in time. What I wanted to
8 talk with you about is the first one in front of
9 you there where it says, "Medicine," at top.

10 Do you see that?

11 A. Yes.

12 Q. This is copy of an article in Time
13 magazine that appeared on December 22, 1952,
14 Exhibit No. 4871.

15 My question to you will be, after I read
16 this, the little blurb to you.

17 Quote, "There is a definite relationship
18 between smoking and lung cancer, conclude two
19 statisticians working for Britain's Medical
20 Research Council.

21 "In some, they say, quote, the
22 association between smoking and carcinoma of the
23 lung is real."

24 Now, Ms. Williams, I am not going to ask
25 you if you remember that article, because that was

M. Williams - X

1 a long time ago, 1952.

2 But in the '50s, do you remember ever
3 talking to Mr. Williams about reports in the
4 popular press linking cigarette smoking with lung
5 cancer?

6 A. No.

7 Q. Next is Exhibit 870, another article from
8 the Time magazine dated December 15, 1952, and the
9 title of the article is, "How To Stop Smoking."

10 Quote, "The best way to stop smoking is
11 to stop smoking, says Scottish Dr. Leonard
12 Johnston. The smoker who wants to reform, says
13 Dr. Johnston, should be frightened by the threats of
14 lung cancer.

15 "The most trying period, Dr. Johnston
16 reports, is the first day and night without
17 tobacco. However he goes about his cure, the
18 addict who finally gives up tobacco will
19 recognize, quote, an ascension of high spirits,
20 energy, appetite, sexual potency, with recession
21 of coughing."

22 Do you will recall discussing with
23 Mr. Williams in the 1950s, about the best way to
24 stop smoking?

25 A. No.

M. Williams - X

1 Q. Did you ever talk with him that he or you
2 were frightened about the possibility of lung
3 cancer?

4 A. No.

5 Q. Direct you now to Exhibit No. 904, an
6 article from The Oregonian, and we heard a little
7 bit about this earlier in one form or the other.
8 The caption of the article is, "Cancer Peril Seen
9 in Fags," which I think the record does indicate
10 is an old-fashioned slang term for cigarettes.

11 "Scientist figures risk percentage.

12 Quote, "A Harvard university scientist,
13 once a heavy smoker himself said Sunday, the
14 two-pack-a-day smoker multiplies his chances of
15 lung cancer 52 times."

16 Did you ever talk to Mr. Williams about
17 any reports in the popular press that by his
18 smoking he may be multiplying his chance of lung
19 cancer?

20 A. No.

21 Q. And I should indicate to you,
22 Mrs. Williams, that these will be in evidence, and
23 the jury will have the entire article with them
24 when they deliberate.

25 The next one is Defense Exhibit No. 905,

1 M. Williams - X

2 again a copy from The Oregonian, dated Friday
3 March 19th, I believe it is, 1954.

4 The caption says, quote, "Report of
5 Cancer Society Points to Cigarette Smoking."

6 Quote, "The American Cancer Society has
7 cautiously voiced its, quote, suspicion that
8 cigarette smoking has something to do with lung
9 cancer. Evidence to date justifies the suspicion
10 that cigarette smoking does, to a degree as yet
11 undetermined, increase the likelihood of
12 developing cancer of the lung."

13 You testified in direct examination that
14 your husband said something about he didn't
15 believe the U.S. Government. Did Mr. Williams
16 ever tell you that he had any reason not to
17 believe the American Cancer Society?

18 A. We never discussed it. And all this that
19 you're asking me in the '50s, we never talked
20 about it, as I testified. It was much later
21 in the '70s, when we was concerned about smoking.

22 Q. What I'm just getting at is whether he
23 ever said anything bad about the American Cancer
24 Society?

25 A. No, he never said anything bad about --

Q. Okay.

M. Williams - X

1 A. -- the Cancer Society.

2 Q. Next, Defense Exhibit No. 801, from The
3 Oregonian, looks like it's June of 1954, June 22,
4 1954. The caption of the article is, "American
5 Cancer Society Links Cigarettes and Lifespan."

6 Quote, "Smoking a pack or more of
7 cigarettes daily cuts the lifespan and doubles
8 death rates from cancer and heart attacks in men
9 from 50 to 70, the American Cancer Society
10 reported Monday.

11 "Compared with nonsmokers, these heavy
12 cigarette smokers run greater risk, not only of
13 lung cancer, but other types of cancer as well."

14 It says, quote, "It is up to individuals
15 whether they wish to continue smoking or not."

16 Did Mr. Williams ever tell you that it
17 was up to him whether he decided to smoke or not?

18 A. He always said things which basically,
19 probably mean the same. He said he has been
20 smoking for so many years, and that it had harmed
21 him.

22 Q. The next article from Time magazine,
23 Exhibit No. 872, dated July 5, 1954.

24 The caption is "Medicine, What is
25 Free" -- no, I'm sorry -- "Medicine, Smoking and

M. Williams - X

1 Cancer, Continued."

2 Quote, "Figures proving that heavy
3 cigarette smokers die younger than nonsmokers,
4 mainly from heart disease and cancer, notably
5 cancer of the lung, but on the basis of leanings
6 today, they conclude that death from lung cancer
7 is three to nine times as common among cigarette
8 smokers as among nonsmokers, and five to sixteen
9 times as common among those who smoke a pack a day
10 or more.

11 "To those who want to stop smoking, his
12 advice was: Make a clean break with no attempt at
13 tapering off. The best way to stop is to stop."

14 When Mr. Williams tried to quit smoking,
15 did you ever talk with him about the best way to
16 quit smoking was not to taper off, but was to stop
17 completely?

18 A. No, I only encouraged him to stop --

19 THE COURT REPORTER: I'm sorry.

20 THE WITNESS: I only encouraged him to
21 stop smoking, not how to do it.

22 BY MR. DUMAS:

23 Q. Next Exhibit 802, The Oregonian, June
24 7th, 1955, caption: "Lung Cancer Risk said Cut
25 When Cigarettes Given Up,"

M. Williams - X

1 Quote, "Give up cigarettes and you
2 probably cut your risk of getting lung cancer, the
3 American Cancer Society's top statisticians
4 declared Monday. The death rate from lung cancer
5 goes up, the more a person smokes, and goes down
6 as they quit the habit."

7 Quote, "It seems probable that even after
8 years of regular cigarette smoking, giving up the
9 habit, may result in a reduction of the risks of
10 developing lung cancer."

11 Did you ever tell Mr. Williams that by
12 giving up cigarette smoking it would reduce his
13 risks of lung cancer? Did you guys ever talk
14 about that?

15 A. Yes, we talked about that, years later.

16 Q. Time magazine, Exhibit 873, May 21, 1956,
17 "Medicine, Smoking and Cancer."

18 "Where there is smoke there is cancer."

19 You don't recall ever seeing that, do
20 you?

21 A. No, I don't recall seeing any of these.

22 Q. The Oregonian, 1956, September 29, "The
23 American Cancer Society said Friday its studies
24 have established a link between cigarette smoking
25 and death between lung cancer and heart disease.

M. Williams - X

1 The lung cancer death rate for regular cigarette
2 smokers is about ten times higher than for men who
3 have never smoked."

4 Exhibit No. 804, from The Oregonian.

5 March 23, 1957, "Cigarette Smoking Cancer Linked
6 in Study Report."

7 "A study group of seven scientists Friday
8 reported there is a direct relationship between
9 cigarette smoking and lung cancer."

10 Defense Exhibit 805, The Oregonian, June
11 5, 1957, "Researchers Tie Smoking to Cancer, Heart
12 Disease."

13 "The nation's doctors were told Tuesday
14 there is a spectacular relationship between
15 cigarette smoking and lung cancer. Quitting
16 smoking lowers the risk of death."

17 During the '50s, Mr. Williams never
18 talked about any of these articles?

19 A. No.

20 MR. THOMAS: Excuse me, Your Honor. I
21 think we have pretty well established that
22 they -- in response to the question, that each
23 and every one of these so far, that during the
24 '50s they didn't --

25 THE COURT: Please just state your

1 M. Williams - X

2 objection.

2 MR. THOMAS: Objection, relevance.

3 Objection, cumulative.

4 THE COURT: To the extent these are
5 exhibits received in evidence, it may be argued
6 to the jury, it does not appear that this
7 witness has any knowledge about the exhibits.

8 In the interest of time let's move on to
9 something --

10 MR. DUMAS: I'm doing that, Your Honor.

11 THE COURT: Let me finish, please.

12 MR. DUMAS: I'm sorry.

13 THE COURT: Let's move to something the
14 witness knows about. You're free to read every
15 one of these to the jury during closing
16 argument, and they will have them because they
17 are in evidence. but we need to have something
18 this witness knows about.

19 BY MR. DUMAS:

20 Q. Mrs. Williams, do you remember the first
21 time that you ever recalled seeing something in
22 the popular press indicating there might be an
23 association between smoking and lung cancer?

24 A. No, I don't remember any time.

25 Q. Okay. Now, the first time that

M. Williams - X

1 Mr. Williams tried to give up smoking, that was in
2 the early '70s, right?

3 A. Yes.

4 Q. He didn't try before that, did he?

5 A. Not that I know of.

6 Q. The longest period that he went without
7 smoking was, what, about three days?

8 A. Yeah.

9 Q. And when he went those three days, that
10 was when he was on the patches, right?

11 A. Yes.

12 Q. When he would quit or try to quit, he
13 would get irritated and nervous, like you talked
14 about earlier?

15 A. Yes.

16 Q. He never quit long enough to gain any
17 weight, did he?

18 A. No, he didn't.

19 Q. When you and Mr. Williams were living in
20 Portland, did you ever hear of the Portland
21 Adventist stop smoking program out there on a
22 101st?

23 A. No.

24 Q. You don't recall it being out there
25 starting in 1963?

M. Williams - X

1 A. No.

2 Q. He never went to a stop smoking clinic,
3 did he, or a program?

4 A. No, he never did.

5 Q. What about the Schick Center out there at
6 Lloyd Center. Do you remember that being there?

7 A. Yes, I remember that.

8 Q. And there was the smoker's dial place out
9 there on Belmont. Did you ever see that place?

10 A. I don't remember that one.

11 Q. Did you and Mr. Williams know folks in
12 the '70s, when he first tried to quit, who
13 themselves quit smoking?

14 A. Not anyone that -- no, I don't know
15 anyone that he might have known and that did. I
16 don't know, you know, I don't remember.

17 Q. Did he ever talk about any of his -- his
18 friends who quit smoking?

19 A. Yeah, once he talked about, like, when
20 you said about the Schick program, he had said
21 that some friend of his had went there. I think
22 that the Schick program was people that put a
23 thing in your ear or something like that and he
24 told me about that.

25 Q. Now, Mrs. Williams, isn't it true that

M. Williams - X/ReD

1 Mr. Williams never pointed out to you any specific
2 statement or representation from Philip Morris
3 that he relied upon in smoking cigarettes?

4 A. Not in writing, no. He got his -- he
5 never pointed it out to me, but he had gave me
6 quotations that he heard on the television.

7 Q. And Mrs. Williams, you talked about you
8 don't like smoking and you never really have liked
9 it, right?

10 A. No, it's a nasty thing. I don't like it.

11 Q. And as far as you're concerned, the sale
12 of cigarettes ought to be banned?

13 A. Yes.

14 MR. DUMAS: Thank you very much,

15 Mrs. Williams. I appreciate your time.

16 THE COURT: Thank you, Mr. Dumas.

17 Mr. Thomas.

18

19 REDIRECT EXAMINATION

20

21 BY MR. THOMAS:

22 Q. Mrs. Williams, I want to ask you a few
23 questions before you're done for the afternoon,
24 okay?

25 I guess the first thing is, back to that

M. Williams - ReD

1 question about what kind of a cough Jesse Williams
2 developed in the '70s. Did the bronchitis that he
3 had, would that come and go?

4 A. Yes.

5 Q. Did the cough or the -- what sometimes
6 people call smoker's cough. Did the smoker's
7 cough that he had, did that get worse and worse
8 over his life?

9 A. Apparently, yes. When he -- when it came
10 back the last time for a long time, it was worse.

11 Q. And did it ever go away before his death
12 at that time?

13 A. He had, you know, a hacking cough that, I
14 guess, the smokers get, but it wasn't like a
15 bronchitis cough, a deep cough, it wasn't that
16 type of cough.

17 He had that, like, when he went to the
18 doctor in the '70s, he had the bronchitis cough.
19 And then he didn't always have it, but he always
20 had, you know, a cough -- like what he just did.

21 Q. When he'd go to the doctor, would you go
22 with him up until this last time when he was so
23 sick?

24 A. Pardon?

25 Q. When he went to the doctor back in the

M. Williams - ReD

1 '70s and the '80s, back before this time that he
2 was so sick, would you go with him or did he go on
3 his own?

4 A. He went on his own.

5 Q. When you look back on his life and your
6 life together, do you remember him ever smoking
7 regularly any other brand -- I don't mean if he
8 ran out and bummed a cigarette from somebody, but
9 buying packs and cartons of any other brand
10 besides Philip Morris or Marlboro cigarettes?

11 A. No. Those are the only two that we
12 bought by the carton and those were the only two
13 that he smoked on a regular basis.

14 Q. You've seen a lot of these foam core
15 things, and I guess we got through about six
16 inches, and it looks like there is about 14 inches
17 left that we didn't go through with Mr. Dumas.

18 Do you have any reason to believe that
19 Philip Morris, that made the cigarettes, wasn't
20 aware of all these things in this foam core?

21 A. I don't -- I don't know if they were or
22 not, but I was tempted to ask Mr. Dumas if it is
23 okay -- is it okay to ask a question?

24 THE COURT: Probably not.

25 Mr. Thomas, let's just do rebuttal.

1 M. Williams - ReD

1 MR. THOMAS: All right.
2 THE COURT: And get your client through
3 this so that we can finish.
4 I'm sorry.

5 BY MR. THOMAS:

6 Q. Well, do you have any reason to believe
7 that Jesse Williams in Portland, Oregon, knew more
8 about the developing evidence about smoking and
9 health than Philip Morris did?

10 A. No. I would think that Philip Morris
11 should have known about all of this, because if
12 they came from the American Cancer Society, that
13 they should have been interested in knowing about
14 it, because they were the producers of cigarettes.

15 MR. THOMAS: Thank you, no further
16 questions.

17 THE COURT: Thank you, Mrs. Williams.

18 We're finished, but you don't need to
19 rush off. I'm going to let the jury go and you
20 can take your time.

21 Jurors, how do you feel about starting at
22 8:30 or 8:45 tomorrow? I have that
23 availability -- there's a big no over there.
24 Perfect. We'll start at 9:00. That's why I
25 asked. I'll work with them at 8:30, and we'll

1 be ready for you at 9:00 tomorrow.

2 Thank you for a hard day's work. Notes
3 on the chair. Don't discuss the case. Watch
4 your step coming on out. Have a good evening.

(Whereupon, the following proceedings were held in open court, out of the presence of the jury at 4:56 p.m.)

10 THE COURT: Counsel, I'm prepared to work
11 with you for a while. If we can do it off the
12 record, I think I can excuse the reporter, and
13 we can just summarize for the record anything we
14 need to when the reporter is back.

15 MR. COON: Are these on the depositions?

16 THE COURT: I don't know.

17 MR. COON: The thing I'm here for today
18 is the Burns' deposition, and we have some
19 objections to deal with. And we could do that
20 now, or we could start at 8:30. It's -- we have
21 to make sure the copy is clean.

22 THE COURT: But what I want to do is go
23 through it now with you. I'm just asking, can
24 we do that off the record, so that you can
25 summarize whatever you want to do after.

1 MR. COON: I think -- we can do it off
2 the record.

6 Mr. Randles, is that okay with you?

7 MR. RANDLES: That's fine, Your Honor.

8 THE COURT: I'm going to excuse the court
9 reporter and we're going to continue.

10 Off the record.

11 (Court adjourned, Afternoon Session,
12 3-9-99 at 5:00 p.m.)

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REPORTER'S CERTIFICATE

I, Katie Bradford, Official Reporter of the Circuit Court of the State of Oregon, Fourth Judicial District, certify that I reported in stenotype the oral proceedings had upon the hearing of the above-entitled cause before the HONORABLE ANNA J. BROWN, Circuit Judge, on March 9, 1999;

That I have subsequently caused my stenotype notes, so taken, to be reduced to computer-aided transcription under my direction; and that the foregoing transcript, Pages 1 through 146, both inclusive, constitutes a full, true and accurate record of said proceedings, so reported by me in stenotype as aforesaid.

Witness my hand and CSR Seal at Portland,
Oregon, this 9th day of March, 1999.

Katie Bradford, CSR 90-0148
Official Court Reporter

I certify this original/duplicate original is valid only if it bears my red colored CSR Seal. Katie Bradford

